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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

13 CR 58 (KBF)

5 ANTHONY SERRANO,

6 Defendant.

7 -----x

8 New York, N.Y.

9 June 16, 2014

9:00 a.m.

10 Before:

11 HON. KATHERINE B. FORREST,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the

17 Southern District of New York

RACHEL MAIMIN

18 RAHUL MUKHI

Assistant United States Attorneys

19 CESAR DE CASTRO

Attorney for Defendant Serrano

20 VALERIE GOTLIB

Attorney for Defendant Serrano

21 ALSO PRESENT: Danielle Craig, Paralegal

22 Todd Riley, Special Agent, DEA

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1 THE COURT: Good morning, everyone. Please, be
2 seated.

3 (Case called)

4 MR. MUKHI: Rahul Mukhi and Rachel Maimin, for the
5 United States. And with us are Special Agent Todd Riley of the
6 DEA and our paralegal specialist Danielle Craig. And during
7 the trial Special Agent Natalie Bara of the FBI will also be
8 sitting at the table. She's in the audience right now.

9 THE COURT: All right. Good morning, all.

10 MR. DE CASTRO: For Mr. Serrano, Cesar de Castro and
11 Valerie Gotlib. Mr. Serrano is seated to our left.

12 THE COURT: Good morning and good morning,
13 Mr. Serrano.

14 All right. We've got several matters to go through
15 this morning before we get our jury. We are one of two
16 criminal trials picking juries today. There's another criminal
17 trial tomorrow starting so we ought to get our jury, we hope,
18 sooner rather than later. But as you folks know, they watch a
19 video and do their intake process, do some paperwork and so I
20 would be very surprised if we got one before ten in any event,
21 but we'll see. We'll get reports at different times and it's
22 possible we'll get one sooner than that.

23 As an initial matter I want to make sure that you all
24 understand the jury selection process and to answer any
25 questions that you may have I described it during the final

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1 pretrial conference and just want to give you folks another
2 opportunity if there were any questions raised by that to
3 address those questions now.

4 MR. MUKHI: We don't have any questions, your Honor.

5 MR. DE CASTRO: None from the defense.

6 THE COURT: All right. Thank you. Now, I have been
7 through the remaining motion in limine which was brought
8 forward by way of letter motion dated June 11 and it was
9 responded to. It was brought forth by the government on
10 June 11 and responded to on June 13. And I've reached some
11 preliminary conclusions about this but I want to be sure I
12 understand and that my reading of the letter is clear in terms
13 of how the testimony is likely to come in.

14 Let me just describe for you the two potential
15 viewpoints. There is the background of the July 4 burglary
16 which is set forth in the government's letter on page two
17 largely. Then there's separately the discussion portion of the
18 government's letter which enumerates in sub-bullets one through
19 three what I understand to be the nature of the testimony.
20 Therefore, it appears that, for instance, one and two if I am
21 correct about the government's proffer as to how things are
22 going to proceed don't even involve statements though they
23 implicate statements, if you will.

24 MS. MAIMIN: That's correct, your Honor. We were
25 careful to carve out the actual statements themselves.

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1 THE COURT: All right. So, three then which is the
2 statement where the CW contacts Serrano, he is going to say he
3 is going to recite the Serrano statement?

4 MS. MAIMIN: He is, your Honor.

5 THE COURT: All right. So that one would be the sole
6 statement. Now, in light of that, it is my view that one and
7 two -- and then we'll deal with three -- one and two aren't
8 even out-of-court statements offered for the truth. They're
9 not in fact statements at all. In any event, the background
10 information which may implicate statements if you want to take
11 it that far is not offered for the truth. It's to, for
12 instance, demonstrate the effect on the CW, the listener and to
13 explain the circumstances under which certain subsequent
14 actions were taken and that fits well within the certified
15 environmental case which was decided on May 28 by the Second
16 Circuit in an opinion written by Judge Rakoff. So, I don't
17 even find that one and two are hearsay even potentially.

18 As to three, I also do not find that it's hearsay.
19 While it is a statement and therefore differs from the prior
20 two categories, it is not a statement which is offered for the
21 truth. In other words, the statement just to be absolutely
22 clear that we're talking about is the following:

23 "I don't care he's looking for me. I will look for
24 him. I don't give a fuck."

25 That is the statement, right?

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1 MR. MUKHI: Yes, your Honor.

2 MS. MAIMIN: Yes, your Honor.

3 MR. MUKHI: Sorry to interrupt. Your Honor recited
4 the fact that we submitted our motion on June 11. We also put
5 in a reply this Saturday. I don't know if your Honor received
6 it as of yet.

7 THE COURT: No.

8 MR. MUKHI: The only point I wanted to raise is we
9 have it narrowed a little bit even further what we're going to
10 elicit on the second bullet point.

11 And third we pointed out is also not hearsay because
12 it is an admission of the defendant under 701 and --

13 THE COURT: Not under 701.

14 MR. MUKHI: Sorry.

15 THE COURT: 701 is lay opinion testimony.

16 MR. MUKHI: It is an admission. I don't have the rule
17 on the tip of my tongue. 801, perhaps, as an exception to
18 hearsay because the defendant said it and it doesn't have to be
19 an inculpatory opinion. We cited a case to that effect. As
20 long as the defendant said it, it's an admission and so it's
21 admissible as non hearsay under an exception to hearsay on
22 that.

23 THE COURT: All right. I will look at that. I'll
24 have my deputy print that reply out and I apologize for not
25 having it. For some reason it didn't show up on the ECF report

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1 that came out over the weekend but that could be because of the
2 timing. It may have come out this morning's ECF report which I
3 haven't look at yet.

4 But, the third statement which I've recited now is not
5 offered for the truth because it doesn't matter if he in fact
6 cares or doesn't care to take the first portion of the
7 statement. So the "I don't care" that's not a statement that
8 is offered for the truth. The statement "he's looking for me"
9 is a question that's not offered for the truth and "I will look
10 for him" is just a statement really not, certainly, not offered
11 for truth. It doesn't matter if he is going to look for him.
12 There's no issue in this case as to whether or not he will look
13 for him or is being looked for. And "I don't give a fuck" is
14 simply a statement of state of mind. So, I don't believe that
15 any of those individual statements -- Thank you. I have been
16 handed a reply -- any of those individual statements are
17 hearsay.

18 Now, to the extent that they implicate hearsay is that
19 by extension they must be a statement of participation, I don't
20 even -- if that's what you are suggesting, Mr. Mukhi, at least
21 as a back-up argument. I don't see the "I don't care if he's
22 looking for me, I will look for him. I don't give you a fuck",
23 I don't see that as indicating that Mr. Serrano even concedes
24 that he was involved. It's more of a statement at least on its
25 face as this fellow's looking for me? Fine, let him look for

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1 me, for whatever reason.

2 MR. MUKHI: No dispute with that, your Honor. Our
3 only point was that in order to be admitted as an admission and
4 we cited this in the last paragraph of our letter, it doesn't
5 need to be an admission in the colloquial sense that he's
6 implicating himself in the crime. An admission is admissible
7 under the, of a opposing party under the rules of evidence just
8 by virtue of the fact that the defendant said it. It doesn't
9 matter --

10 THE COURT: Oh, I see what you are saying.

11 MR. MUKHI: He said it. So, it doesn't matter
12 whether -- I am sure defense is going to argue it wasn't
13 inculpatory statement. That's fine. They can argue that but
14 it doesn't matter for admissibility purposes.

15 THE COURT: I was going on the basis of admission. I
16 think Mr. de Castro had referenced it in his letter.

17 MR. MUKHI: Correct. They can argue that but that
18 doesn't go to admissibility.

19 THE COURT: All right. In any event --

20 Mr. de Castro.

21 MR. DE CASTRO: Just so I can make a record here,
22 judge, on this issue, number one, just to address the last
23 point first I guess, with respect to the admission, the
24 government's admission in their reply is, yes, and that they've
25 made it today is that basically any statement by a defendant is

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1 an admission. I don't think that's the case. They cited
2 Seventh Circuit case for that. From my perspective in which we
3 are going to look outside the circuit, fine. There's an
4 Eastern District case that says admission is a voluntary
5 acknowledgment made by the party of the existence of the truth
6 of certain facts which are inconsistent with his or her claims
7 in an action. That's the point of an admission here.

8 And in the case they cite the actual statement they
9 were talking about was a, I guess it was a plaintiff's or the
10 plaintiff I think died in this case. She said I guess after a
11 car accident that they didn't have anything do with it. It
12 wasn't their fault, an admission, something that is at issue.

13 Here, two things I want to make a record of, number
14 one is I don't think these are relevant at all. The only
15 reason the government is putting it in is to show that he was,
16 Mr. Serrano was responsible for this burglary. That is the
17 only reason to put that statement in because they want the two
18 prior references which is references to both Mr. Whites and
19 Mr. Moral's beliefs. Number one, Mr. Moral is going to testify
20 about what Whites tells him his belief is who is responsible
21 for an actual count here that we're talking about

22 THE COURT: As I understood it that is not the way
23 it's going to come in.

24 Ms. Maimin, as I understood the proffer from the
25 government that is the background to the statement. But on

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1 page three of the government's letter of June 11 it appears to
2 indicate with the sub-bullets that it would come in -- I'm
3 sorry. Page two -- hold on. I am looking at June 14. It is
4 page three of the sub-bullets that it's after the conversation
5 with Whites and it's not going to reference the texts messages
6 or the actual conversation in terms of content, just that a
7 conversation had occurred.

8 Ms. Maimin, am I misunderstanding?

9 MS. MAIMIN: No, that's exactly right. We are not
10 going to elicit any statements of Whites. We are simply going
11 to elicit that after a conversation with Whites Mr. Moral
12 understood that Whites believed that the defendant was
13 responsible for the burglary.

14 THE COURT: So, hold on. Let's just parse that out.
15 Is Mr. Moral, the cooperating witness, going to testify, I
16 believed that Whites believed that, he is going to say that?

17 MS. MAIMIN: Yes.

18 MR. DE CASTRO: That's where, judge, I think that's
19 the ultimate issue in this case. He can't testify to that.
20 Not to mention his belief is formed by what Whites is telling
21 him where Whites was looking at something else. It's double
22 the triple.

23 THE COURT: All right. Now, the way it's appropriate
24 to have it come in I think is the version that I had suggested
25 which is that I had a conversation with Whites. Whites had

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1 been the victim of the robbery and after that conversation I
2 understood Whites was going to be pursuing Serrano. I called
3 Serrano up and said, hey, this guy is going come looking for
4 you and Serrano said to me, hey, I don't care.

5 MS. MAIMIN: Yes, your Honor, we can limit it to those
6 very narrowed tailored statements.

7 THE COURT: That way it is not stating that he
8 believes that Whites believed Serrano that had, in fact, been
9 behind the burglary. Now, it may be that in any event it's
10 state of mind and so if we go to the double hearsay analysis it
11 would not be hearsay in any event. However, if we can avoid
12 that conundrum it would be better.

13 MS. MAIMIN: We will, your Honor. He'll just testify
14 that he had a conversation with Whites about the burglary and
15 then he called the defendant and told him that Whites was
16 looking for him.

17 THE COURT: Now I do understand that that is
18 nonetheless inculpatory because it is the case that if you
19 discuss with the victim of the burglary the fact that he's gone
20 off and assaulted Locksmith I think it the name of the fellow
21 and then in addition to that determines that he's going to go
22 after Serrano, there is an implication that Serrano is
23 involved. However -- and this is a separate point -- that is
24 not a hearsay issue. That's a Rule 403 issue. And the Court
25 has performed the balancing test necessary under Rule 403 and

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1 it is my view that the probative value of the series of pieces
2 of evidence that we were talking about here is not
3 substantially outweighed by any prejudicial effect. Certainly,
4 there is a prejudicial effect as with all relevant evidence
5 that goes toward proving an element of a cause of action or a
6 crime but here it does complete the story. It really, as I
7 understand it, lays out why and how the CW and Serrano got
8 together to perform additional robberies in addition to the
9 so-called cargo theft.

10 MS. MAIMIN: Yes, your Honor. And we're also not even
11 going to elicit that the locksmith as beaten-up by Whites. So,
12 that's another piece that we are not even introducing.

13 THE COURT: All right. So, let me also make sure that
14 I have one other thing which is under the 403 analysis I also
15 think that this statement is probative of the relationship of
16 trust. I think I described it as describing the circumstances
17 under which they came together but it could further the
18 relationship of trust. And while it's got a prejudicial effect
19 it's not substantially -- that prejudicial effect is not, does
20 not substantially outweigh the probative value. So, that if
21 the information comes in that way in the way in which the
22 government has suggested then it will be allowed.

23 All right. Now, what I may do is depending upon how
24 it comes in offer a curative instruction. Now I may not. It
25 depends on how it comes in. I don't want to draw undue

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1 attention to it. I don't want to suggest that it's
2 inculpatory. It doesn't sound inculpatory. We'll just wait an
3 hear.

4 Mr. de Castro, if when it comes in you believe -- and
5 I have not sua sponte suggested a curative instruction -- if
6 you believe that one is necessary that would be something to
7 take up at the sidebar at the next break.

8 MR. DE CASTRO: OK. I will.

9 THE COURT: All right. Thank you. So, that is the
10 remaining motion in limine. Now, let me just also say that in
11 reviewing the Certified Environmental Services case it does
12 raise a couple of things that have typically come up in the way
13 in which criminal trials are conducted these days which is the
14 use of the cooperation agreements. And I have not read the
15 Certified Environmental case before the motion in limine was
16 presented to me. Having read it now, I hope that you folks are
17 all familiar with it and that the government intends to proceed
18 accordingly.

19 So, in other words you, shouldn't reference Moral's
20 obligation to tell the truth in your opening because he won't
21 have attacked yet. And unless Mr. de Castro raises Mr. Moral's
22 credibility in his opening you would be precluded from raising
23 the truth telling aspects of cooperation agreement unless and
24 until Mr. de Castro or Ms. Gotlib goes after Mr. Moral's
25 credibility which based upon the proffers is likely but it will

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1 be a redirect then as opposed to direct. I just say that
2 because of the way in which I think this changes the manner of
3 proceeding.

4 MR. MUKHI: Your Honor, we've read it closely and
5 we're not going to veer from anything that was held in that
6 case. Obviously, we're not referencing the truth telling
7 provisions. In the opening we'll listen carefully to Mr. de
8 Castro's opening to see what attacks, if any, he makes on
9 Moral's credibility at that point and we'll proceed
10 accordingly.

11 THE COURT: Fine. I just wanted to make sure we're
12 all on the same page. It sounds like we are. The other issues
13 are relatively unique to that case.

14 All right. In terms of the witnesses, has there been
15 any luck in reaching any stipulations which you folks have
16 thought there were to be at least one as to the custodial
17 witnesses which are listed as numbers I think 16 through 22?

18 MR. MUKHI: Yes, your Honor. We actually have reached
19 a number of stipulations except for the phone custodians. So,
20 there's one stipulation with respect to expert and expert areas
21 related to interstate effect of narcotics trafficking,
22 particularly, heroin and cocaine. So that eliminates number
23 14, Special Agent Eric Baldus of the DEA. We've reached a
24 stipulation with respect to the Department of Motor Vehicles
25 witness. So that will eliminates 16. Seventeen, 18, 19, 20

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1 are still going to be witnesses. We have the name of the
2 Sprint witness and we've provided that to the defense. There's
3 also no stipulation to audio recordings still. So Frank Piazza
4 will be testifying with respect then the enhancement of audio,
5 primarily. And we have reach stipulation with regards to the
6 video recordings and that eliminates the need as to Sergeant
7 Decandido who collected a video that we'll be introducing.

8 THE COURT: All right. So with my notes.

9 MR. DE CASTRO: The one thing I wanted to bring up
10 with the government which I just forgot this morning was that I
11 think the only issue, the only person, the only custodian
12 person I think that and I don't know how it affects their
13 witnesses that we would not stipulate to would be the cell site
14 person.

15 THE COURT: And the cell site is the Verizon person?

16 MR. DE CASTRO: One moment.

17 (Pause)

18 MR. DE CASTRO: Judge, if I could just confer with my
19 client, please?

20 THE COURT: Yes.

21 (Pause)

22 MR. DE CASTRO: We're going to have a stipulation on
23 that, judge.

24 THE COURT: So, that will be for the three.

25 MR. DE CASTRO: The phone custodian.

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1 THE COURT: The four phone custodians. So, the
2 remaining custodial witness will be 21 which is the audio
3 enhancement.

4 MR. DE CASTRO: Correct.

5 THE COURT: All right. Thank you. All right. So let
6 me just make sure that we're all on the same page about that.
7 Based upon the government witness list and I am working off the
8 one from June 6, is titled June 6. It came in as part of your
9 final pretrial order, that would be number 14 is off which is
10 Special Agent Eric Baldus; 16, which is the DMV; 17, Verizon;
11 18, Sprint; 19, T-Mobile; 20, AT&T and 22, Sergeant Michael
12 Decandido NYPD. Those would be no longer necessary. Do I have
13 the correct list?

14 MR. MUKHI: Yes, your Honor.

15 THE COURT: Mr. de Castro?

16 MR. DE CASTRO: I think that's correct, judge.

17 THE COURT: All right. Thank you.

18 OK. So with those eliminations does the government
19 have a revised view as to how long it expects its case in chief
20 to last?

21 MR. MUKHI: Your Honor, one more that come off the
22 list is 13. We got a stipulation as to direct at the testing.
23 And 13 was a drug chemist, Caitlin Farrel.

24 THE COURT: Mr. de Castro, is that correct?

25 MR. DE CASTRO: That's correct.

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1 THE COURT: All right. Thank you.

2 Mr. Mukhi, with those eliminations are we still
3 talking about the same length of time or shorter?

4 MR. MUKHI: I think we should be done with testimony
5 on Thursday.

6 THE COURT: All right. So, we'll then see. At this
7 point in time, Mr. de Castro, do you have a view as to whether
8 or not your client is intending to testify? And I am not
9 requiring that there be, that he commit one way or the other
10 until he sees how the government's case comes in but if he
11 knows for sure now that he is or is not, then it will be
12 helpful to know.

13 MR. DE CASTRO: I will let the Court know as soon as I
14 know. I don't know yet.

15 THE COURT: All right. Fine. Then I will tell the
16 jury that the case is likely to take the entire week and
17 possibly Monday and Tuesday and that that's our best estimate.
18 It could go a little fast or a little slower but, basically,
19 that is the timeframe.

20 All right. We'd spoken at the final pretrial about
21 any objections that there might be to evidence and I had not
22 received any objections in advance as to the government's list
23 of evidence.

24 Mr. de Castro, did you have an opportunity to review
25 that?

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1 MR. DE CASTRO: Yes, judge. We have no objection.

2 THE COURT: All right. Nonetheless, we'll still go
3 through the same process of laying foundations and if things
4 come in differently, Mr. de Castro, than you expect and you
5 have an objection you did not previously believe you had, of
6 course, you should raise it and you are not eliminating your
7 ability to do so but it does help me if I understand it to make
8 some preliminary rulings which is why I ask.

9 The jury charge you'll be getting probably tomorrow
10 morning and you'll get it in Word form as well as a hard copy
11 so you folks can go through. We'll try to give you a black
12 line as well.

13 Anything else that we should go over right now?

14 MR. MUKHI: Yes, your Honor. There's one substantive
15 issue and then a few housekeeping issues. I'll start with the
16 substantive.

17 One of our witness who's scheduled to testify today
18 Sergeant Kolakowski could you say sky of the Hudson County
19 prosecutor's office. In sum and substance he is going to
20 testifying about two days where he conducted surveillance
21 during a controlled buy of heroin where heroin was bought
22 through an informant from an individual who had interactions
23 with the defendant on those days. So that what he's going to
24 be testifying about. We have disclosed that Sergeant
25 Kolakowski was a defendant in a lawsuit in a completely

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1 unrelated case in an unrelated investigation where there was a
2 wrongful arrest lawsuit against him and other officers.

3 Our understanding is in sum and substance the officers
4 misidentified the defendant through a series of, I believe what
5 they -- and Ms. Gotlib has some deposition testimony that
6 indicates this -- they had gone off of phone records and car
7 records, arrested the individual who is on those records and
8 then subsequently determined that someone else had stolen this
9 person's identity or was using the identity of another person
10 who was the actual person committing the crime. So, there was
11 a civil lawsuit generated out of that. And the ultimate
12 finding of the lawsuit was that there was probable cause to
13 make the arrest and the civil lawsuit didn't proceed.

14 So, the defense has raised with us that they intend to
15 cross-examine Sergeant Kolakowski about that case and that
16 lawsuit and our view is that it's not proper topic for
17 cross-examination. It's completely unrelated to this case.
18 The fact that there was a wrongful arrest in some other case is
19 not relevant.

20 THE COURT: Well, let me just ask you I want to make
21 sure I understand Kolakowski's proffer and what you expect his
22 testimony to be at this point in time. His testimony is not
23 going to relate, for instance, to identifying this defendant
24 through analysis of phone records; is that right?

25 MR. MUKHI: That's correct, through his observations.

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1 There may have been surveillance in that other case as well.
2 That's what Sergeant Kolakowski told us. Originally, it was
3 that it was a misidentification made by another officer during
4 surveillance. Ms. Gotlib has some deposition testimony that
5 seems to indicate that the identification was also based on
6 analysis of phone records and car records and records but there
7 may have been some surveillance. At least that's what Sergeant
8 Kolakowski told us in that other investigation.

9 THE COURT: All right. So let me just sort of make
10 sure I understand the fact scenario. So Kolakowski and another
11 officer are involved in an investigation. Another officer
12 conducts surveillance of some sort. And based upon that there
13 is the identification of a defendant. A fellow is arrested.
14 There's subsequently a lawsuit relating to wrongful arrest on
15 probable cause grounds, is found to have been not a wrongful
16 arrest though is there a concession that there's
17 misidentification?

18 MR. MUKHI: Yes, there is. The case is dismissed
19 against the person who ultimately files the lawsuit. So
20 there's a concession it was the wrong guy.

21 THE COURT: All right. And the expectation is that
22 that lawsuit would be used for cross-examination of
23 Mr. Kolakowski.

24 MR. MUKHI: Correct.

25 THE COURT: All right. So what is the purpose is

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1 that -- first of all, is that right, Mr. de Castro, Ms. Gotlib?

2 And then secondly, if it is correct that there is an
3 expectation of using that, what impeachment purpose would it
4 serve as opposed to having Kolakowski, essentially, become an
5 expert in the fact that there can be misidentifications which
6 would not be a proper purpose? The jury knows that some
7 identifications are right and some are wrong. So, explain to
8 me what the purpose is.

9 MS. GOTLIB: Sure. The overall purpose is really
10 things aren't always as they seem. But more importantly as to
11 the impeachment and the credibility of Detective Kolakowsk was
12 that he --

13 THE COURT: Stop for one second. Address the "things
14 aren't always as they seem". That would not be a proper
15 purpose for cross-examination because that would just be a
16 trying to use a particular event to suggest that there have
17 been instances when things were not as they seemed in another
18 unrelated case. That's not probative as to whether or not in
19 this particular case things are not as they seem. I understand
20 the point. I understand the defense but that would not be a
21 proper purpose.

22 So, let's go to the second which is the impeachment.

23 MS. GOTLIB: We believe that that bears on his
24 credibility. It shows in this actually particular case that
25 arrest was made in November of 2009 and it wasn't dismissed

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1 until January of 2011. Had the officer listened to the phone
2 calls that they've based the, that they had a wiretap on he
3 would have heard that the individual who they did arrest had a
4 meeting for probation. The individual who they ultimately
5 arrested was not on probation. Once defense counsel uncovered
6 this and brought it to them they then dismissed it. Had he
7 done his due diligence and carefully listened and gone through
8 all of the evidence, he probably would have discovered that and
9 might not have brought charges. And we think that that's
10 relevant of his since it wasn't his surveillance, since he
11 didn't do surveillance in this case. We think that's relevant
12 as to his credibility.

13 THE COURT: Credibility would go to his propensity to
14 be truthful or untruthful and so that would be evidence which
15 you could elicit if the officer at his deposition or in some
16 other manner suggested he hadn't done his due diligence for
17 instance the he had listened to the phone calls when he had not
18 and therefore then crossing him on the "and you didn't, did
19 you" and you then testified that in fact you hadn't when you
20 previously said you had, that would be a lie or an untruth and
21 that would be a proper way of impeaching and going towards
22 credibility.

23 If the point is shoddy work, that he has a propensity
24 for shoddy work in some manner that is not directly relevant to
25 the facts in this case. In an unrelated case, so tell me in

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1 terms of testimony, do you have him conceding I told you I'd
2 done it or anything close to that. I am not suggesting how it
3 has to come in where he's caught in an untruth or a lie or a
4 obfuscation of the truth in some manner that could lead to the
5 jury questioning his voracity.

6 MS. GOTLIB: No. I just recently was able to locate
7 the transcript and I've viewed it briefly. If I could ask the
8 Court for --

9 THE COURT: Yes.

10 (Pause)

11 MS. GOTLIB: Well, an arrest was made based on his
12 assertions that this was the individual and that at the end of
13 the day was not correct.

14 THE COURT: And at the time of the arrest had there
15 been any suggestion that that tape excessed and that he should
16 have listened to the tape at the time of the arrest.

17 MS. GOTLIB: Yes. He was aware that that's how they
18 found the individual because there were wire tapes and there
19 was somebody listening to the tapes and monitoring them.

20 THE COURT: What I am trying to do is trying to catch
21 him in a lie. I am trying to catch a moment of where you could
22 impugn his voracity or his credibility. Is there anything that
23 suggests that he said or indicated that he had done something
24 that he hadn't done, not that as a matter of negligence it
25 would have been better practice one might argue. I have no

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1 idea that he should have listened to the tape but did anybody
2 suggest that he had or he hadn't?

3 And if you want to give me the testimony to review, I
4 can review it. If that's where you are getting the information
5 or if there are a couple of pieces of paper that puts together
6 the story, I am happy to look at this. Clearly, we've got to
7 select a jury and go through openings. We've got a little bit
8 of time.

9 MS. GOTLIB: Yes, if your Honor would be OK. I have
10 the deposition testimony as well as the statement of undisputed
11 material facts from the summary judgment that ultimately did
12 prevail in the case.

13 THE COURT: All right. So let me take a look at
14 those. Let me see whether or not they change my initial view.

15 Do you have a view or are you making an argument that
16 it would be proper impeachment of a witness on
17 cross-examination to try to go after something other than
18 credibility, truthfulness I mean as opposed to, essentially,
19 calling him as your own witness?

20 MS. GOTLIB: It would be in the scope of direct
21 because the direct is about what he did in this investigation
22 and his work. And while this was in another one I do think
23 that it has some bearing on his overall investigation skills
24 and his diligence again in everything.

25 THE COURT: I see what you are saying. So, just so

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1 it's clear, so when you say "in this investigation" you are
2 referring to the Serrano investigation that that investigation
3 refers to the one relating to this other third party?

4 MS. GOTLIB: Yes.

5 THE COURT: Let me take a look at the stuff, the
6 material that you have.

7 Mr. Mukhi.

8 MR. MUKHI: I don't think this is right, defense
9 saying that the prior investigation is related to the Serrano
10 investigation.

11 THE COURT: No, she's not saying that. That is what I
12 was trying to clarify that. As I understand it, these are
13 completely unrelated investigations that Mr. Kolakowski was
14 implicated in a wrongful arrest in a second investigation that
15 somehow implicated a tape which had it been listened to and
16 when it was listened to resulted in a determination that the
17 defendant there in that unrelated investigation was not the
18 correct defendant. And the implication is that the
19 thoroughness of Mr. Kolakowski's work there may have some
20 bearing on the thoroughness of his work here.

21 MR. MUKHI: I would just add and we haven't seen the
22 deposition transcript or the other papers but we accept the
23 defendant's proffers thus far about them, but this would really
24 just be a trial within a trial. We would then establish on
25 redirect, OK, he didn't listen to that recording what else did

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1 he do in this investigation of -- I don't even know the
2 defendant's name -- as far as other evidence that he had
3 gathered that established probable cause as the civil court
4 held. And so then we would get into, well, he didn't listen to
5 the recording but he did pull these records. He did listen to
6 these other recordings to this one recording that I guess the
7 allegation was that the agents missed. So under a 403 analysis
8 we'd go very far afield.

9 THE COURT: Well, it depends on how long it would
10 take. The risk of confusion increases as the duration of the
11 testimony increases. The testimony for Ms. Gotlib if her cross
12 on this is going to be relatively limited and your cross would
13 be, say hers is ten minutes and say yours is ten minutes that
14 is different than spending half a day on this detour and
15 frolic.

16 MR. MUKHI: We understand. That's correct. But I
17 guess the point is this is completely unrelated. We are going
18 to be talking about some individual I don't even recall his
19 name because he's unrelated to this case and about the
20 investigatory steps that were taken into I don't even know what
21 type of case it was in 2009.

22 And the other point that Ms. Gotlib made about the
23 length it took to dismiss the case, the agents don't decide
24 when the case is dismissed.

25 THE COURT: Let's put the length of how long it took

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1 to the side because I think the point as I understand
2 Ms. Gotlib's proffer that they would like to show is that this
3 fellow was being presented as having done a particular kind of
4 investigation and the jury is supposed to rely upon the quality
5 of that investigation and that he's had another situation in
6 his career whether it turned out that his investigation had not
7 been of high quality and that therefore this particular
8 individual, the jury should understand has had a -- I am just
9 making out the argument as best I can see it -- has had a very
10 success rate in terms of maintaining quality standards.

11 Do I have your argument, generally speaking?

12 MS. GOTLIB: Yes, you do. And I would limit the
13 cross. It would be very short, as you said, about ten minutes.

14 MR. MUKHI: OK. But a ten-minute cross, one question
15 about you didn't listen to this one recording leaves an unfair
16 impression that the one recording was the key to the case that
17 he didn't listen to, so we would have to -- the other thing is
18 this agent --

19 THE COURT: How long would that take, do you think?

20 MR. MUKHI: I haven't seen the deposition testimony.

21 THE COURT: Why don't you take a look at it and let's
22 talk about it during a break and see whether or not it can be
23 kept within a relatively narrow parameter. I also have to look
24 at this and see what I think.

25 MR. DE CASTRO: She didn't mean ten minutes on this

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1 topic alone. She means ten minutes total for that witness.

2 THE COURT: All right.

3 MR. MUKHI: The other point is that Sergeant
4 Kolakowski was not the lead investigator in this case. I
5 believe he was in the lawsuit. Now, here's just going to be
6 testifying about conducting surveillance on two days and what
7 he saw on those two days. And I don't believe there's going to
8 be any suggestion that he made a misidentification visually on
9 those days. And so it's a --

10 THE COURT: Is that right? Is there going to be --

11 MR. MUKHI: -- totally different situation.

12 THE COURT: Let me make sure that's correct. Is the
13 defendant going to argue that Mr. Kolakowski misidentified the
14 defendant on those two days or misidentified what he saw on
15 those two days?

16 MS. GOTLIB: No, we are not arguing that. But it's
17 our view that those have to be the exact same situation.

18 THE COURT: All right. Let me take a look at these
19 materials. I think I understand the issue and we'll come back
20 to it. It is not immediately clear to me that this should come
21 in but I am not also making a determination yet that it should
22 not. I want to look at this and think about it for a little
23 bit. Because there's no suggestion of misidentification or
24 that the surveillance here somehow did not indicate what had
25 been seen accurately. It is further afield and I am concerned

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1 that the jury would be confused and take from this an
2 implication that more generally misidentifications occur with
3 frequency again turning him into sort of by implication an
4 expert on or by implication a speaker on the extent to which
5 there are -- So let me think about it.

6 I have been handed the following materials in
7 connection with this point, a statement of undisputed material
8 facts and CIV116744 of District of New Jersey along with the
9 plaintiff's response to that. One is a document 40-2. The
10 other is 45-1 and then Exhibit A which is 40-4 to this same
11 proceeding and I will review that.

12 MS. GOTLIB: I would just like to put on the record
13 that I just obtained them through the District of New Jersey
14 ECF, the docket for that case publicly available.

15 THE COURT: Thank you. So we'll come back to that.
16 What else was there? We are going to get the jury by the way
17 at 10:30.

18 MR. MUKHI: Just for the Court's information Sergeant
19 Kolakowski is our second witness who is going to testify today.

20 THE COURT: All right. Well, I don't anticipate
21 having to contemplate this issue for a terribly long period of
22 time. I think I'll have an answer after I've looked at these
23 materials.

24 MR. MUKHI: And depending on timing we may try to put
25 in a brief letter because there are cases that address when

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1 unrelated lawsuits should come in and shouldn't come in and so
2 if we have time we may put something in.

3 (Continued on next page)

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Voir dire

1 THE COURT: Well, let's put it this way, rather than
2 having a letter, I would like a cite or two. If you think
3 there are cases directly on point which demonstrate this should
4 not come in and just give me a cite or two, we can print it out
5 right here, and that would be quite helpful to my threading my
6 way through it. All right?

7 MR. MUKHI: We can do that between now and 10:30. And
8 then just a couple of housekeeping matters. None of these are
9 substantive, and I think all of them were conferred to defense
10 already, and there is no dispute.

11 One, as I mentioned at the beginning, we are going to
12 have two agents who are going to be sitting at the table
13 throughout the trial. They are both case agents. One is
14 Special Agent Todd Riley from the DEA, he is the DEA case
15 agent, he will also be testifying. And then Special Agent
16 Natalie Bara who is from the F.B.I. Newark, who will also be
17 testifying, and she is also a case agent, and we told the
18 defense that both of them will be here throughout the trial,
19 and there was no objection to that.

20 Then with respect to the introduction of physical
21 evidence, we talked to the defense about doing it the same way
22 that we did in the Borrero trial, which is introducing it all
23 at once, and there was no objection to that.

24 Same with the name plates for the face plate and name
25 plate board, there is no dispute as to various people's names,

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1 and aliases, so for the most part, maybe some exceptions, we
2 are just going to put them up on the board without showing them
3 to the witness, and we will introduce them all at once.

4 THE COURT: Let me say in terms of aliases, you remind
5 me that in the voir dire one alias I'm not intending to ask
6 separately about is Jay, because a lot of people could know the
7 name Jay. It's Javion Camacho. I will mention his name, and I
8 will also mention known as King Kong but not just randomly Jay.
9 Is there an objection?

10 MR. MUKHI: That's fine with us.

11 THE COURT: And Mr.Serrano's alias is uncontested,
12 Challini?

13 MR. DECASTRO: Correct.

14 THE COURT: Am I pronouncing it correctly?

15 MR. DECASTRO: Yes.

16 MR. MUKHI: And this might be mooted, but we were
17 planning to introduce some phone records and charts through our
18 first witness, Detective Kealy, subject to connection, since
19 they are based on Verizon records, and we were expecting to
20 have the custodian testify tomorrow. But if we can work out a
21 stipulation before he testifies, then they will just be
22 offered, not subject to --

23 THE COURT: All right. Thank you. Anything from
24 defense counsel?

25 MR. DECASTRO: No, your Honor.

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1 THE COURT: All right. Are openings still in the
2 vicinity of 15 to 20 minutes approximately?

3 MS. MAIMIN: Yes, your Honor.

4 MR. DECASTRO: Yes.

5 THE COURT: All right. So let's do this. Let's take
6 a break. We will then come back when we get the jury, go
7 directly into jury selection, and proceed in that way. Are
8 there demonstratives people are using in the openings and, if
9 so, have you shared them with each other?

10 MS. MAIMIN: We're not.

11 MR. DE CASTRO: No.

12 THE COURT: Great. Let's take a break until the jury
13 gets here.

14 (Recess)

15 (Jury panel present)

16 THE COURT: All right, ladies and gentlemen. We're
17 here to pick a jury for a criminal trial. We are going to pick
18 a jury of 12 jurors and two alternates, and I am Judge Forrest
19 and I am going to preside over this case and preside over the
20 jury selection process. So, let me tell you a little bit about
21 how the jury selection process works in my courtroom.

22 What I do is we have 12 of you called randomly, and
23 you are seated in the box in the positions of jurors 1 through
24 12. At that point you are a prospective juror. Right now you
25 are all prospective jurors. Two alternates will also be seated

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Voir dire

1 in the box. Then I ask a series of questions.

2 The folks who are sitting in the box, if they have a
3 yes answer, or otherwise need to address the question, will
4 raise their hand. But all of you should listen, and all of you
5 should keep in mind whether or not you also have a yes answer
6 to any of the questions, because it could well be the case that
7 you find yourself sitting in the box, and then what I do is I
8 say you prospective juror 2, you heard me ask a series of
9 questions, were there any that you would have had a yes answer
10 to? And you might say yes, as a matter of fact, my husband is
11 a police officer, or, yes, as a matter of fact, I have served
12 on a jury before. That doesn't mean you are off the jury; it
13 means we will proceed to ask you some additional questions.
14 All right? But that's why it's important that everybody listen
15 to what I'm saying.

16 If at any point in time you can't understand me, you
17 can't hear me, or I'm speaking too quickly, you raise your
18 hand, we will make sure that I speak in a way that everybody
19 can hear and understand.

20 Now, when you are sitting in the box, and if you
21 answer a question, it's important that you not convey
22 information to the rest of the jury that might cause them to
23 think thoughts in a particular way that might change the way
24 they view the case or influence them in some way. So, if your
25 answer to a question is yes or no, keep it at yes or no. We

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Voir dire

1 will take it step by step. But if you've got a long
2 explanation for something, we will probably take you over here
3 at side bar. That's what we call it when we move over to side
4 bar, so that things aren't said in a way that's public, that
5 everybody can hear that might unduly influence the rest of the
6 panel.

7 Now, you should understand that these questions are
8 not meant to embarrass you in any way. We ask questions
9 because we are trying to get a fair and impartial jury, and we
10 have to ask a series of questions. But, please, don't think
11 that these questions are directed at you in any personal way in
12 terms of trying to embarrass you in any way.

13 Now, my questions in this case, and any prospective
14 juror's answers to those questions are not evidence, they are
15 just questions designed to ensure that we get a fair and
16 impartial jury in this case.

17 Now your oath that you took downstairs -- the oath
18 that you took -- did you not take an oath downstairs and up
19 here? Two? One oath, just up here. Got it.

20 Your oath which you have taken obligates you to give
21 truthful answers to the questions that I ask. Now, our system
22 of law depends upon citizens performing their jury service. I
23 have absolutely no doubt that everybody in this room would be
24 doing something else if you weren't called to come serve on a
25 jury. There is very little to no likelihood that you would

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1 randomly show up in my courtroom and be sitting here. So I
2 want to, number one, thank you; two, acknowledge that you have
3 a life and that you are taking time out of your life to be here
4 to perform your jury service, and to say that is something that
5 we as citizens need to do.

6 Judges are not immune from it. We go over to state
7 court and sit on juries if they pick us. It will be
8 fascinating to sit on a jury. Everybody has to do it. The old
9 exemptions are gone. All right? So doctors sit, lawyers sit,
10 judges sit, famous people sit, important people sit,
11 unimportant people, everybody sits. This is what we do as
12 citizens.

13 Now, as I said earlier, this is a criminal case, which
14 means that the defendant is punishable under the laws of the
15 United States if the jury finds him guilty beyond a reasonable
16 doubt of the crimes with which he has been charged. Now, in a
17 criminal case every defendant is presumed innocent unless and
18 until the government is able to prove guilt beyond a reasonable
19 doubt. That presumption of innocence stays with a defendant
20 throughout the trial, and he starts then with a clean slate.
21 It's very important that everybody understand that.

22 Now, as the jury, the jury decides the issues of fact
23 in a criminal case. I as the judge, I have certain other jobs,
24 but I don't decide guilt or innocence. That's for the jury.
25 What I decide are issues of evidence, is certain evidence going

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Voir dire

1 to be admitted. I keep an orderly courtroom, and I instruct
2 the jury on the law. But the jury is the finder of the facts
3 in a criminal case.

4 Now, the charges against a defendant in a criminal
5 case are contained in a document that's called an indictment.
6 All right? An indictment is not evidence; it is evidence of
7 nothing. It is simply a statement about the charges brought
8 against the defendant. You cannot draw any inference that the
9 defendant is guilty from the fact that he has been indicted and
10 is here before you on trial.

11 We're on trial now because the defendant has pled not
12 guilty to the charges against him in the indictment and,
13 therefore, the indictment is simply a series of accusations,
14 and it is up to the government to prove the defendant is guilty
15 beyond a reasonable doubt before he can be found guilty of
16 those accusations. And the only evidence that the jury can
17 consider in that regard is evidence from witnesses who testify
18 here in the courtroom, documents and other evidence offered by
19 the government and accepted by the court.

20 Now I am going to describe to you a little bit about
21 the case, and then we are going to call our first set of 12
22 plus two into the box. All right?

23 Now, the defendant in this criminal case is a fellow
24 named Anthony Serrano. He also is known as Chillini, and he
25 has been formally charged, as I said a moment ago, in an

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Voir dire

1 indictment. In that indictment he has been charged with two
2 counts of conspiracy and one firearm count. And I am going to
3 describe those to you in a little bit high level detail.

4 Count One charges the defendant with participating in
5 a conspiracy to distribute or possess with intent to distribute
6 a controlled substance, here heroin and cocaine. That
7 conspiracy is alleged to have existed from in or about 2012 up
8 through and including July 31, 2013.

9 Count Two charges the defendant with participating in
10 a conspiracy to commit a robbery of individuals believed to be
11 engaged in narcotics trafficking. That conspiracy is alleged
12 to have occurred during the same time period as Count One.

13 Now, Count Three charges the defendant with using,
14 carrying or possessing a firearm or gun that was brandished, or
15 aiding and abetting another in doing that in further of either
16 the narcotics conspiracy in Count One or the robbery conspiracy
17 in Count Two.

18 So, that's what this case is about. Now, the case is
19 going to last this week and maybe possibly Monday and Tuesday
20 of next week. It's not a long case. All right? And as I
21 said, I know you folks would be someplace else if you weren't
22 here, so I thank you in advance for the fact that you are here
23 doing your jury service.

24 We are now going to call the first 12 randomly and put
25 you in the box. And the two alternates will also be put in the

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1 box.

2 Now, Joe is going to get the cards out. After I am
3 done asking a series of preliminary questions, and we have the
4 12 and the two, and we will replace people as we go, after that
5 people will be asked to stand up and just give a short
6 statement about here are the TV shows I watch, here is the kind
7 of job that I'm in, the people in my household have the
8 following kinds of jobs. It's just very short, 30 seconds, to
9 give counsel an idea of who you are, a little bit of very basic
10 information about who you are. But I will lead you through
11 this, and we will do it step by step.

12 All right, Joe.

13 This is also used for bingo on Sunday nights.

14 DEPUTY COURT CLERK: Prospective Juror 1, Sarah J.
15 Shweisky, s-h-w-e-i-s-k-y. Please take the first seat in the
16 first row closest to me.

17 Prospective Juror 2, Yolanda Rivera, R-i-v-e-r-a.
18 Ms. Rivera, please take the second seat in the first row
19 closest to me.

20 Prospective Juror 3, Thomas G. Bukkley, B-u-k-k-l-e-y.
21 Mr. Buckley, please take the third seat in the first
22 row.

23 Prospective Juror 4, Sarah W. Soong, S-o-o-n-g. Am I
24 pronouncing that correctly? Please take the fourth seat in the
25 first row.

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1 Prospective Juror 5, Isabel A. Tirado, T-i-r-a-d-o.
2 Ms. Tirado, please take the fifth seat in the first row.

3 Prospective Juror 6, Sarah L. Baumann, B-a-u-m-a-n-n.
4 Ms. Baumann, please take the sixth seat in the first row.

5 Prospective Juror 7, Miriam Green, G-r-e-e-n.
6 Ms. Green, please take the last seat in the first row.

7 Prospective Juror 8, Peter E. Nowicki, N-o-w-i-c-k-i.
8 Mr. Nowicki, please take the first seat in the second row
9 closest to me.

10 Prospective Juror 9, Kachung Lai, K-a-c-h-u-n-g L-a-i.
11 Mr. Lai, please take the second seat in the first row.

12 Prospective Juror 10, Anthony R. Inoa, I-n-o-a.
13 Mr. Inoa, is that pronounced correctly?

14 JUROR: Yes.

15 DEPUTY COURT CLERK: Prospective Juror 11, Isabel
16 Figueroa, F-i-g-u-e-r-o-a. Please take the fourth seat in the
17 second row.

18 Prospective Juror 12, Andy Camejo, C-a-m-e-j-o.
19 Mr. Camejo, please take the fifth seat in the second row.

20 Prospective Alternate Juror 1, Shaymali Chanda,
21 S-h-a-y-m-a-l-i C-h-a-n-d-a. Ms. Chanda, please take the
22 second to last seat in the last row.

23 And Prospective Alternate Juror 2, Diane C. McNulty,
24 M-c-N-u-l-t-y. Ms. McNulty, would you please take the last
25 seat in the last row.

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1 THE COURT: Thank you. All right. I want to remind
2 everybody whose name was not initially called to listen to all
3 of the questions, because it is always the case that multiple
4 people who are sitting out in the audience now will find their
5 way into the box for one reason or another as we proceed, so
6 it's very important that you not think that the process is now
7 irrelevant to you. It is relevant to everybody here.

8 All right. Now, I'm going to ask some questions, and
9 the folks who are out in the audience you don't have to raise
10 your hands right now. Just the folks in the box need to raise
11 their hand, both the 12 and the 2. All right?

12 So everybody sitting in the box, if you've got a yes
13 answer, or otherwise need to address one of the questions that
14 I ask, then you will raise your hand and we will decide which
15 of these matters we take here and which of them we need to take
16 over here.

17 Now, you folks heard me describe just a little bit
18 about this case a few minutes ago. Does any prospective juror
19 have any personal knowledge or knowledge from other sources of
20 the charges in the indictment against this defendant?

21 Does any prospective juror feel that he or she could
22 not view fairly and impartially a case involving such charges?

23 Does any juror, prospective jury, feel that the
24 actions involved in such charges should not be a crime?

25 Has any juror -- when I say juror, I am talking about

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1 prospective jurors obviously, and prospective alternate
2 jurors -- been involved in an offense involving heroin, cocaine
3 or any other controlled substance?

4 Has any juror's relative or close friend been involved
5 in an offense involving heroin, cocaine or other controlled
6 substance?

7 Does any prospective juror have any biases for or
8 against the U.S. government, the United States attorney's
9 office, or any federal or state law enforcement agency, or
10 people who work in law enforcement?

11 Now, I mentioned a few moments ago this case is going
12 to last this week. Friday we will actually have off unless you
13 are deliberating. If the jury is in the process of
14 deliberating as of Thursday, we will have you come back on
15 Friday to continue. But if you are not deliberating and
16 testimony is still going on, then we will take Friday off and
17 come back Monday. But it's going to be a relatively short case
18 in that we expect around a week or possibly even less. Now,
19 that's an estimate; it could go a couple days one way or the
20 other. Does any prospective juror have any reason why you
21 could not serve on a jury of that duration? Does it present
22 any particular and unusual hardship?

23 Now, does any prospective juror have any problem with
24 hearing or vision, or any other problem that you can either
25 that would prevent you from giving your full attention to the

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1 evidence in this case?

2 Is there any prospective juror taking any medication
3 that would make it difficult for you to give your full
4 attention to the evidence in this trial?

5 Does any prospective juror have any difficulty
6 understanding or reading English such that you do not believe
7 you could listen to and understand the evidence in this trial?

8 Does any prospective juror have any religious,
9 philosophical or other beliefs that would make you unable to
10 render a guilty verdict in a criminal case?

11 Let me go back for a moment. Does any prospective
12 juror have any difficulty understanding or reading the English
13 language? All right. Alternate number one, do you believe
14 you've got difficulty understanding or reading the English
15 language?

16 JUROR: Yes.

17 THE COURT: Which one? Reading or speaking?

18 JUROR: Speaking.

19 THE COURT: And did you go to school in the United
20 States?

21 JUROR: Yes.

22 THE COURT: Did you go to school in the English
23 language?

24 JUROR: Yes.

25 THE COURT: What was the highest level of school that

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1 you went to?

2 JUROR: High school.

3 THE COURT: Which high school?

4 JUROR: Hampton High School.

5 THE COURT: And how many years did you go to that high
6 school? Was it four, or did you start someplace else and
7 finish there?

8 JUROR: Three years.

9 THE COURT: Three and a half years?

10 JUROR: Yes.

11 THE COURT: All right. And can you read English?

12 JUROR: A little bit, not too much.

13 THE COURT: Did you take the Regents exam when you
14 graduated from high school?

15 JUROR: Yes.

16 THE COURT: And did you pass the Regents exam?

17 JUROR: Yes.

18 THE COURT: All right. So we will hold off just for a
19 moment, and we will continue.

20 All right. Has any prospective juror had any legal or
21 paralegal training? Prospective Juror 7? 8?

22 JUROR: I'm acting as an expert witness in some
23 litigation that's going on.

24 THE COURT: What's your profession, sir?

25 JUROR: I'm a banker by trade.

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1 THE COURT: And is there anything -- is that a
2 criminal case or a civil case?

3 JUROR: It's a civil case.

4 THE COURT: Is there anything about your role as an
5 expert witness or potential expert that makes you believe you
6 could not be fair and impartial in this case?

7 JUROR: No.

8 THE COURT: All right, thank you. Anybody else?

9 All right. Now, in a moment I'm going to ask counsel
10 to introduce themselves and the other folks sitting at their
11 table, and I am going to be asking you folks whether or not you
12 know any of these individuals. So, Mr. Mukhi, why don't you
13 introduce folks.

14 MR. MUKHI: Yes. Good morning. My name is Rahul
15 Mukhi, assistant United States attorney in the Southern
16 District of New York, and with me is assistant United States
17 attorney Rachel Maimin; Special Agent Todd Riley with the Drug
18 Enforcement Administration or the DEA; a paralegal specialist
19 named Danielle Craig, who also works at the U.S. Attorney's
20 office; and finally Special Agent Natalie Bara, who works at
21 the Federal Bureau of Investigation or the F.B.I.

22 THE COURT: All right. Does any prospective juror
23 know any individuals sitting at the government's table?

24 Let's have Mr. De Castro introduce himself and his
25 table.

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1 MR. DE CASTRO: My name is Cesar De Castro, and I
2 represent Anthony Serrano, and Valerie Gotlib, and we represent
3 Mr. Serrano.

4 THE COURT: And that's Mr. Serrano there, ladies and
5 gentlemen. Does anybody know either defense counsel or the
6 defendant Mr. Serrano? All right. Thank you. You may be
7 seated.

8 Now, during the trial you are going to hear from and
9 about certain people, and I am going to ask you now if you know
10 any of them, so I'm going to list a bunch of names. If you
11 know any people by the name that I say, raise your hand. It
12 may be that there is somebody else who has the same name. That
13 happens with some frequency, so we take it step by step.

14 All right. Does anybody know anybody named Linda
15 Serrano? Javion Camacho, also known as King Kong? Julio
16 Camacho, also known as King Honesty? Alex Cespedes? Victor
17 Moral? Louis Borrero? Ali Husein? Joshua Roman, also known
18 as Swag? Benjamin Jimenez? Domingo Vasquez? Gary Sanchez?
19 Manuel Pimenteo? Oliver Flores? Oscar Noriega? Rafael
20 Huerta? Ramon Jiminez? Victor Gomez? Jauncey Valle or Valle?
21 Carlota Camacho? Margaret Camacho? Benny Lisojo? Somebody
22 who is known as Nene, N-e-n-e? Wilfredo Martinez? Benny
23 Blanco? Wilfredo Suarez, also known as Black? Ricardo Pena,
24 also known as White or Whites? Erickson Gilbert? Yscarly
25 Infante? Efrain Ortiz? Crystal Lonneberg? Joseph Sierra?

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1 Mario Rodriguez? Nicholas Hall? Michael Gamba? Lou Faccone?
2 Philip Fanara? Detective Justin Kealy of the Hudson County
3 prosecutor's office? Special Agent Todd Riley of the DEA?
4 Investigator Reginald Donaldson of the United States attorney's
5 office, Southern District of New York? Police officer
6 Christina Briones of the NYPD? Special Agent Eric Perry of the
7 F.B.I? Sergeant Anthony Musante of the Hudson County
8 prosecutor's office? Sergeant John Kolakowski of the Hudson
9 County prosecutor's office? Special agent Natalie Bara,
10 B-a-r-a, of the F.B.I? Sergeant Michael Decandido of the NYPD?
11 Anybody know any of those folks?

12 All right. Now you are also going to hear -- let me
13 just ask you another question. Does anybody know if their
14 family or close friends know any of those folks?

15 During the trial you are also going to hear about
16 certain places, and I want to know now if you have particular
17 familiarity with these places, not just that you happen to pass
18 it when you are walking one day, but do you have particular
19 familiarity. And if you do, we will take it one by one.

20 The Post Road between Lakeview and 253rd Street in the
21 Bronx. West 251st Street and Broadway in the Bronx. The
22 McDonald's located at 427 Tenth Avenue, which is the corner of
23 34th and Tenth. 348 8th Street in Jersey City, New Jersey.
24 Northwest corner of St. Nicholas Avenue and West 171st Street
25 in Manhattan. 120 Audubon Avenue in Manhattan. Webster Avenue

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1 in the Bronx. Burnside Avenue in the Bronx.

2 Which one? Burnside?

3 JUROR: Burnside.

4 THE COURT: Which part of Burnside?

5 JUROR: By Morris.

6 THE COURT: By Morris?

7 JUROR: Yeah.

8 THE COURT: And what does your familiarity stem from?

9 JUROR: I live across -- I live around there. I live.

10 THE COURT: Right there?

11 JUROR: Yeah.

12 THE COURT: OK. What number do you live at? Well,
13 don't tell us. Hold on. Tell me, Mr. Mukhi, is that the area
14 that is going to be referenced?

15 MR. MUKHI: One moment, your Honor.

16 THE COURT: We are looking at Morris and Burnside.

17 MR. MUKHI: Your Honor, the spot at issue at trial is
18 Anthony Avenue and Grand Concourse. It looks like it's about
19 four blocks away.

20 THE COURT: Are you familiar with that area as well?

21 JUROR: Yeah.

22 THE COURT: All right. Now, based upon the fact that
23 you live in that area, do you think that you would have an
24 issue being fair and impartial evaluating events that may or
25 may not have occurred but that are alleged to have occurred in

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1 that area?

2 JUROR: No.

3 THE COURT: All right. Amsterdam Avenue, between
4 163rd Street and 164th Street in Manhattan. The Barge Inn in
5 Jersey City.

6 All right. Now, I am going to ask another series of
7 questions, and I want you to be thinking not only about
8 yourself for these questions but also about whether or not a
9 family member or very close friend or relative but close, not
10 your 12th cousin twice removed, would answer these questions in
11 a particular way as well.

12 Has any juror had any dealings with or been employed
13 by the F.B.I., DEA, Drug Enforcement Agency, the U.S.
14 attorney's office, or with any other federal, state or local
15 law enforcement agency? And that includes, for instance, the
16 NYPD, or if you've got a relative who is a corrections officer.

17 All right. So we have Prospective Juror 3 and 9.
18 Number 3, sir, who do you know, not in terms of the name but
19 who knows whom and what position?

20 JUROR: Sister-in-law.

21 THE COURT: What is she?

22 JUROR: She was a police officer.

23 THE COURT: Was she NYPD?

24 JUROR: No, upstate Albany area.

25 THE COURT: Is she retired?

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1 JUROR: She is no longer working.

2 THE COURT: Is there anything about your
3 sister-in-law's prior employment as in law enforcement that
4 would make you be unable to be fair and impartial in this case?

5 JUROR: No.

6 THE COURT: All right. Prospective Juror 9, who do
7 you know?

8 JUROR: My cousin.

9 THE COURT: All right. And is that a first cousin or
10 second cousin?

11 JUROR: Distant cousin.

12 THE COURT: Do you spend a lot of time with this
13 distant cousin?

14 JUROR: No.

15 THE COURT: All right. And what position does that
16 distant cousin have?

17 JUROR: NYPD.

18 THE COURT: All right. And is that cousin currently
19 employed by the NYPD?

20 JUROR: Yeah.

21 THE COURT: Do you know if he or she is employed in
22 any particular area, division, task force?

23 JUROR: No.

24 THE COURT: You just don't know one way or the other?

25 JUROR: Yeah.

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1 THE COURT: Is there anything about your cousin's
2 employment by the NYPD that makes you feel that you could not
3 be fair and impartial in this case?

4 JUROR: No.

5 THE COURT: All right, thank you.

6 Anybody else? Yes, 10?

7 JUROR: Uncle, officer.

8 THE COURT: Is that in the NYPD?

9 JUROR: Yes.

10 THE COURT: All right. And do you spend a fair amount
11 of time with your uncle?

12 JUROR: No.

13 THE COURT: Do you know if your uncle was on any kind
14 of task force or part of any particular division?

15 JUROR: No.

16 THE COURT: You just don't know one way or the other.
17 I saw you nodding your head no. Is that right?

18 JUROR: Right.

19 THE COURT: The court reporter takes down every word I
20 say and every word that everybody else says, so he can't take
21 head motions, especially when I'm behind him.

22 All right. Is there anything about your uncle's
23 employment by the NYPD that makes you feel that you couldn't be
24 fair and impartial in there case?

25 JUROR: No.

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1 THE COURT: Anybody else? All right.

2 Now, does anyone have any close family member,
3 including a domestic partner, who works in law enforcement, in
4 the criminal justice system, in jail or in a prison? That
5 includes what I was saying before, but it's a little bit
6 broader.

7 Now, are any of you employed by the court system as a
8 judge, law clerk, court attendant, clerk or any other part of
9 the court's personnel?

10 Has any juror, prospective juror, served as a juror in
11 a criminal or civil case before? And if you have, I will walk
12 you through it one by one and we will find out how many. I
13 don't ever want to know what the verdict was, and so I warn you
14 about that in advance.

15 Who served before as a juror? All right. Prospective
16 Jurors 4, 5. Who else? 11 and alternate 1.

17 Prospective Juror 4, how many times have you served on
18 a jury before?

19 JUROR: Just once.

20 THE COURT: And was that in a criminal or a civil
21 case?

22 JUROR: Civil case.

23 THE COURT: All right. And without telling me the
24 result in the civil case, did you go all the way to a verdict?

25 JUROR: Yes.

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1 THE COURT: All right. And is there anything about
2 your prior jury service that makes you feel you couldn't be
3 fair and impartial in this case?

4 JUROR: No.

5 THE COURT: Prospective Juror 5, how many times have
6 you served?

7 JUROR: Twice.

8 THE COURT: Civil or criminal?

9 JUROR: Civil and criminal.

10 THE COURT: One of each?

11 JUROR: One of each.

12 THE COURT: And without telling me the verdicts, did
13 the civil case go to verdict?

14 JUROR: No.

15 THE COURT: Did it settle?

16 JUROR: Yes.

17 THE COURT: All right. And the criminal case, did
18 that go all the way to verdict?

19 JUROR: Yes.

20 THE COURT: Is there anything about your prior jury
21 service that makes you feel that you couldn't be fair and
22 impartial in this case?

23 JUROR: No.

24 THE COURT: All right. Prospective Juror 11, how many
25 times did you serve?

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1 JUROR: One.

2 THE COURT: Criminal or civil?

3 JUROR: Civil.

4 THE COURT: And without telling me the verdict, did
5 you reach a verdict?

6 JUROR: Settled.

7 THE COURT: It settled. All right. Is there anything
8 about your prior service as a juror that makes you feel you
9 could not be fair and impartial in this case?

10 JUROR: No.

11 THE COURT: All right. And Alternate Juror 1 --
12 actually you're technically number 2 -- but how many times have
13 you served before?

14 JUROR: Twice.

15 THE COURT: Was it criminal or civil?

16 JUROR: One of each.

17 THE COURT: And on the civil case, did it go all the
18 way to verdict?

19 JUROR: No, it settled.

20 THE COURT: And on the criminal case, did it go to
21 verdict?

22 JUROR: Yes.

23 THE COURT: And is there anything about your prior
24 service as a juror that makes you feel that you could not be
25 fair and impartial in there case?

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1 JUROR: No.

2 THE COURT: Anybody else who served as a juror before?

3 JUROR: I did.

4 THE COURT: Sorry. Prospective Juror 1, how many
5 times?

6 JUROR: Just once.

7 THE COURT: Civil or criminal?

8 JUROR: Civil.

9 THE COURT: And did it go all the way to a verdict?

10 JUROR: Um-hum.

11 THE COURT: Is that yes?

12 JUROR: Yes.

13 THE COURT: OK. All right. And is there anything
14 about your prior jury service that makes you feel you couldn't
15 be fair and impartial in this case?

16 JUROR: No.

17 THE COURT: Thanks. Anybody else? All right. Now,
18 has anybody -- and again this includes a close family member,
19 including a domestic partner -- has anybody been charged with a
20 crime or been the subject of any investigation or accusation by
21 a governmental body? All right. So, number 3, we will take
22 these over here at side bar, so you can come on down.

23 Let me ask, does anybody -- and again this includes
24 not just yourself but domestic partners and other close family
25 members -- is anybody under a subpoena or about to be that they

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Voir dire

1 know of in a criminal case or in an investigation? All right.

2 Juror 3, come on down.

3 (At the side bar)

4 THE COURT: Was it you or somebody close to you?

5 JUROR: My sister-in-law is in a county correctional
6 facility right now.

7 THE COURT: Is she accused or gone all the way to
8 verdict in the case?

9 JUROR: She is going to have a hearing, I believe, in
10 a couple weeks.

11 THE COURT: What has she been accused of?

12 JUROR: It's a family court matter.

13 THE COURT: Do you know if there were any narcotics
14 involved in it?

15 JUROR: Alcohol, I think.

16 THE COURT: And do you know if there are any firearms
17 involved?

18 JUROR: No.

19 THE COURT: OK. Is there anything about that, the
20 fact that you have a sister-in-law who is currently under
21 investigation and is in a correctional facility, that makes you
22 feel you could not be fair and impartial in this criminal case?

23 JUROR: I don't know why she is actually there, but I
24 think I could be impartial actually.

25 THE COURT: OK. So it's important that -- I always

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1 ask again if people say they think they can be. It's very
2 important that the defendant have impartial jurors. Do you
3 think you could be?

4 JUROR: Yeah.

5 THE COURT: Counsel. Do you have any other questions
6 you would like me to ask? All right. Thank you.

7 (Juror not present)

8 THE COURT: Before we all go, let me just ask one more
9 question. You can go ahead back. I am just going to ask from
10 here who has been a victim of a crime. All right? Because
11 then we will get people to come down. OK? Just hold on.

12 (In open court)

13 THE COURT: I am going to ask the next question from
14 here because sometimes we get people who need to come down, so
15 rather than going back and forth, we will have you all come
16 down.

17 Have any of you or a close family member -- again
18 including a domestic partner -- been victims of a crime?

19 All right, Prospective Juror 8, why don't you come on
20 down. Anybody else? OK. Prospective Juror 11. Anybody else?
21 All right, we will take you one by one over here.

22 (At the side bar)

23 JUROR: I was robbed in Brooklyn.

24 THE COURT: What year?

25 JUROR: In high school. This is Brooklyn Tech.

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1 THE COURT: So this is Prospective Juror 8?

2 JUROR: And the police staged -- attended the subway I
3 was in, and they caught the guys, and I went to Brooklyn court,
4 and I was the victim in a trial.

5 THE COURT: So let me ask you, without embarrassing
6 you, how long ago was this?

7 JUROR: I was 16, so it was 40 years ago.

8 THE COURT: All right. Now, and you said -- did you
9 testify in fact in that trial?

10 JUROR: Yes.

11 THE COURT: And did that go to verdict?

12 JUROR: Yes.

13 THE COURT: And was the verdict guilty or not guilty?

14 JUROR: Guilty.

15 THE COURT: OK. Now, is there anything about that
16 situation that you were a victim of and the fact that you also
17 were at a trial that makes you feel you couldn't be fair and
18 impartial here?

19 JUROR: I can be fair and impartial.

20 THE COURT: All right. Thank you.

21 Counsel, anything further? All right.

22 Prospective Juror 11, please. Was it you or somebody
23 close to you?

24 JUROR: My son in Virginia.

25 THE COURT: And how long ago did it occur?

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1 JUROR: Like seven years ago.

2 THE COURT: Seven years ago? And he was a victim?

3 JUROR: No, they accusing him of drinking and driving.

4 THE COURT: I see. And did he go to trial on that?

5 JUROR: No.

6 THE COURT: Reach some other resolution?

7 JUROR: They suspended his license.

8 THE COURT: Is there anything about that situation
9 with your son that makes you feel you could not be fair and
10 impartial in this criminal case?

11 JUROR: Not really.

12 THE COURT: Have you or anybody you know of or who is
13 close to you been the victim of a crime?

14 JUROR: No.

15 THE COURT: OK, thank you. You can go ahead and go
16 back.

17 All right, ladies and gentlemen, anything further with
18 those two?

19 MS. MAIMIN: No.

20 MR. DE CASTRO: No.

21 THE COURT: Let me just also say, since I have you up
22 here, that I am disinclined to dismiss Alternate 1 for cause
23 because my assessment was that her English language skills were
24 better than she suggested they were based upon her experience
25 in New York City schools taking tests and things, etc. If we

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1 determine at some point that her language skills are less than
2 adequate, we will deal with that, of course. Any objection?

3 MS. MAIMIN: No.

4 MR. DE CASTRO: No.

5 (In open court)

6 (Continued on next page)

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Jury Voir Dire

1 (In open court)

2 THE COURT: All right. Ladies and gentlemen, we're
3 going to go on to some additional questions now. The witnesses
4 in this case may include law enforcement personnel. Indeed,
5 the witnesses will include law enforcement.

6 Do any of you believe you would be biased either for
7 or against a witness just because he or she is a member of law
8 enforcement?

9 You may hear testimony in this case from someone
10 working with law enforcement personnel, for instance, somebody
11 working in an undercover capacity. That is, you may hear
12 testimony from an agent or officer or someone working with an
13 agent or officer who pretended to be someone other than himself
14 or herself for the purposes of furthering the investigation.
15 These people who work with law enforcement are sometimes called
16 confidential informants. I advise you that the use of
17 undercover agents and confidential informants is legal.

18 Does any of you have any general feeling about the
19 government's use of undercover agents or confidential
20 informants that would make it difficult for you to render a
21 wholly fair and impartial verdict in this case?

22 Now, you may also hear testimony in this case from one
23 or more cooperating witnesses, that is, people who have
24 themselves committed crimes and who have pled guilty to their
25 criminal conduct pursuant to a cooperation agreement with the

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Jury Voir Dire

1 government. I advise you that the use of cooperating witnesses
2 is legal.

3 Do any of you have any feelings about the government's
4 use of cooperating witnesses that would make it difficult for
5 you to render a wholly fair and impartial verdict in case?

6 Now, under our system of law every defendant as I've
7 said, is presumed to be innocent and cannot be found guilty
8 unless a jury having heard all of the evidence in a case
9 unanimously decides that the evidence proves the defendant's
10 guilt beyond a reasonable doubt.

11 Is there anyone who has difficulty accepting that
12 proposition of law?

13 Now, it's not pleasant duty to find another individual
14 guilty of committing a crime. Is there any juror who feels
15 that even if the evidence established the defendant's guilt
16 beyond a reasonable doubt he or she might not be able to render
17 a guilty verdict for reasons unrelated to the law and the
18 evidence?

19 Now, will each juror accept the proposition of law
20 that the question of punishment is for the Court alone to
21 decide and that possible punishment should not enter and must
22 not entered into the deliberation of the jurors in terms of
23 guilt or innocence? And when I say "Court" I mean "judge".
24 Anybody have a problem accepting that proposition of law?

25 A defendant is not required to call any witnesses or

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Jury Voir Dire

1 to produce any evidence in a case or to take the witness stand.
2 If the defendant elects not to take the witness stand you may
3 not draw any inference unfavorable to the defendant based on
4 the fact that he chose not to testify. That may not enter into
5 your decision.

6 Is there any prospective juror who has a difficulty
7 following that instruction?

8 Now, I've tried to bring your attention to various
9 matters that would expose and potentially reveal any biases or
10 partiality that you might have but you yourselves search your
11 own mind and your own consciences and ask yourselves is there
12 any reason that you know of that you could not be fair and
13 impartial in this case? Because if you cannot be fair and
14 impartial in this case it is your duty not to serve as a juror
15 in this case.

16 THE JUROR: Yeah, I think so.

17 THE COURT: All right. Prospective Juror No. 1, you
18 are excused.

19 We're going to call someone else up from the panel.
20 We're going to randomly dig into the bingo box here and pull
21 out a name.

22 COURTROOM DEPUTY: Prospective Juror No. 1, Rosemary
23 Delia, D-E-L-I-A. Will you, please, take the first seat in the
24 first row.

25 THE COURT: Prospective Juror No. 1, you heard me ask

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Jury Voir Dire

1 a number of questions. Were there any to which you would have
2 a "yes" answer?

3 THE JUROR: Yes.

4 THE COURT: Okay. Which ones?

5 THE JUROR: Several. I was a victim of a crime.

6 THE COURT: OK.

7 THE JUROR: Several police officers in my family.

8 THE COURT: OK.

9 THE JUROR: Trying to remember. There were a couple
10 more. I was a juror, did reach a verdict.

11 THE COURT: OK. All right. Any others that you can
12 think of?

13 THE JUROR: That's it.

14 THE COURT: All right. We'll do the victim of a crime
15 separately but let me ask you first about your relatives who
16 are police officers. Are they currently police officers?

17 THE JUROR: Yes.

18 THE COURT: Are they NYPD?

19 THE JUROR: Yes.

20 THE COURT: OK. And are any of them associated with
21 any particular task forces?

22 THE JUROR: Undercover.

23 THE COURT: All right. And are any of them
24 involved -- well, I'll stop bright there. So how close are
25 these relatives?

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Jury Voir Dire

1 THE JUROR: Nephew, two first cousins.

2 THE COURT: Do you see these folks with any
3 regularity?

4 THE JUROR: Yes.

5 THE COURT: Do you think that you would be biased in
6 favor or against the NYPD or any other law enforcement as a
7 result?

8 THE JUROR: In favor.

9 THE COURT: You think you would be biased in favor?

10 THE JUROR: Yes.

11 THE COURT: You don't think you could put that to the
12 side and listen impartially?

13 THE JUROR: No, not with them or them in the family.

14 THE COURT: All right. You are excused.

15 COURTROOM DEPUTY: Prospective Juror No. 1, William A
16 Friedman, F-R-I-E-D-M-A-N.

17 Mr. Friedman, please, take the first seat in the first
18 row.

19 THE COURT: Mr. Mukhi, while we're doing that, and I
20 just apologize, but have you introduced the special agent?

21 MR. MUKHI: Natalie Bara, yes, we did.

22 THE COURT: All right. Terrific.

23 All right. Prospective Juror No. 1, you heard me ask
24 a number of questions. Were there any to which you would have
25 had a "yes" answer?

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Jury Voir Dire

1 THE JUROR: No.

2 THE COURT: All right. Now, ladies and gentlemen,
3 we're going to go on to the next phase. The next phase is
4 you're all going to stand up and just tell us a little bit
5 about yourself. My deputy is going to hand out a questionnaire
6 and it asks for things like your age. If you don't want to
7 give a precise age you are allowed to give a range. After I
8 hit 50 that became my moniker, you know. So we'll take each of
9 you. This is not to be like your autobiography of complete
10 sort of statement of everything you've ever done. It's just a
11 30 seconds or so, whatever will help us just to get to know a
12 little bit about you.

13 So, we'll start with Prospective juror No. 1. You
14 don't have to say "question number one". You can just say,
15 following it down, here is what I do, here is where I am. I am
16 going to have you stand up because we can get a better
17 projection of your voice that way.

18 THE JUROR: 25 years old, live on the upper east side
19 of Manhattan, work at a speakers bureau, so I represent various
20 celebrities for speaking engagements. Don't have any children,
21 not married, watch TV, big sports fan. That's what I do spare
22 time.

23 THE COURT: All right. Do you read any magazines or
24 things online in particular?

25 THE JUROR: Mostly sports things but I follow the news

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Jury Voir Dire

1 as well.

2 THE COURT: All right. Thank you, sir. Do you live
3 in New York? In your household do you live with other folks?

4 THE JUROR: Two roommates, friends from college.

5 THE COURT: What are their professions?

6 THE JUROR: One is in construction management. One is
7 in kind of marketing, advertising.

8 THE COURT: Thank you.

9 Prospective of Juror No. 2, tell us about yourself.

10 THE JUROR: I am 36 years old. I live in the Bronx.
11 I live with my two kids. I am a chef. I have been a chef for
12 six years. I've never been married. I do read books but I
13 read like fiction books.

14 THE COURT: What kind of TV shows do you watch?

15 THE JUROR: Gossip Girl and all that stuff with my
16 kids.

17 THE COURT: All right. Thank you. Prospective Juror
18 No. 3.

19 THE JUROR: 51, married, two kids. I live on the
20 midtown east. I have been running a staff and family staffing
21 company for 25 years, follow the stock market, sports.

22 THE COURT: Do you read any particular magazines or
23 newspapers everyday or regularly?

24 THE JUROR: Pretty much the Internet. I follow CNN,
25 those type of things.

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Jury Voir Dire

1 THE COURT: Do you watch any TV shows on a regular
2 basis?

3 THE JUROR: No.

4 THE COURT: All right. Thank you. Prospective Juror
5 No. 4.

6 THE JUROR: That's me. Hi. I have been in this
7 country most of my life ever since I was a year old. Grew up
8 in Arizona and I have been a teacher for many years and I am
9 now a substitute teacher in the town where I live. OK. I have
10 one child and I read The New York Times and let's see.
11 Probably online magazine. I watch like 20/20 and sometimes
12 CSI, OK. All right.

13 THE COURT: And your child employed or still --

14 THE JUROR: Yeah, she's 27. She works for Google in
15 California.

16 THE COURT: I see. OK. All right. Prospective Juror
17 No. 5.

18 THE JUROR: I am 66. And I've lived here most of my
19 life since from Puerto Rico. I live in Washington Heights and
20 I live alone. My occupation is I am a professor of history and
21 I work William Patterson office in Wayne, New Jersey. So, I
22 was married to a finance banker. And I do have an adult
23 daughter who has her own business. And I have a PhD and I read
24 and I dance and I do exercise and I do read The New York Times
25 everyday plus a lot of other things as part of my work and I do

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Jury Voir Dire

1 watch the News Hour and Law and Order.

2 THE COURT: All right. Thank you. Prospective Juror
3 No. 6.

4 THE JUROR: I am 40 years old. I live in Harlem with
5 my husband who is a public school teacher. I am a financial
6 analyst in Jersey City, New Jersey. No children. I've
7 graduated college and I am working on my masters degree. I
8 like to spend time outside and exercise, camping.

9 THE COURT: What kind of TV shows do you watch?

10 THE JUROR: I -- well, don't watch a lot of TV.

11 THE COURT: All right. Thank you. Prospective Juror
12 No. 7.

13 THE JUROR: I am 69. I lived in this country all my
14 life and I am a resident of Chelsea. My occupation was a Head
15 Start teacher for 40 years. I am retired. I am a widow. I do
16 not have a domestic partner for the moment. My children are
17 grown. They're married and they're out of the household.

18 THE COURT: What do your kids do?

19 THE JUROR: One is a school teacher retired also,
20 cause they're my stepchildren and one lives in Baltimore and
21 she works with a youth program. I haven't worked for the past
22 12 years. I have been retired. And I love reading and
23 attending church and senior center and I read the Daily News
24 and the Times and I just like to see oh, I love Scandal and
25 Criminal Minds.

E6GAASER3

Jury Voir Dire

1 THE COURT: Thank you. Prospective Juror No. 8.

2 THE JUROR: 56 year old married father of two
3 teen-agers who lives on the middle east side I guess, as well.
4 I have been in this country or 46 years. I've spent 30 plus
5 years on Wall Street running parts of banks. I am currently
6 unemployed because of the credit crisis and I am doing some
7 consulting work for an economic consulting litigation
8 consulting company and I love TV. I am a ski instructor
9 part-time. I work with a lot of kids.

10 THE COURT: What do you watch on TV?

11 THE JUROR: Mostly Net Flicks, crime dramas.

12 THE COURT: Did you spend, you said you spent 46 of
13 those 56 years in this country.

14 THE JUROR: I was born in Eastern Europe, Poland to be
15 specific.

16 THE COURT: All right. Thank you. Prospective Juror
17 No. 9.

18 THE JUROR: I am 44 years old. I lived in this
19 country for 34 years and I have been living in Rockland for --
20 my occupation is auto mechanic. I work for New York City
21 Transit for over 20 years. And I am married, have two kids and
22 they're both in school. My wife is a mechanical engineer and I
23 finished high school and two years of vocational school. In
24 spare time I work on the house and car and watch car magazines
25 and Popular Mechanics and on the Internets.

E6GAASER3

Jury Voir Dire

1 THE COURT: Any TV shows in particular that you watch
2 regularly?

3 THE JUROR: History channels and speed channel.

4 THE COURT: All right. Thank you. Where were you
5 born?

6 THE JUROR: Kantong, China.

7 THE COURT: All right. Thank you, sir.

8 Prospective Juror No. 10.

9 THE JUROR: 32, born and raised here, manhattan, lived
10 down in the Bronx, occupation bus driver, school bus driver,
11 not married. I have a girlfriend. Education, GED, spare time
12 outside riding bikes or programs probably like -- rescue or
13 something like that.

14 THE COURT: All right. Thank you.

15 All right prospective Juror No. 11.

16 THE JUROR: I am 65 years old. I lived in the Bronx
17 for 46 years. I live with my husband I am the first vice
18 president for Local 20 D.C. 37 AFSME. I work for them for 27
19 years. I am married or 25 years. My husband is a taxi driver.
20 I have two years of college. I also have one year of college
21 in labor. I like to read. I like to read union books and also
22 labor law. My television program is Undercover Boss.

23 THE COURT: All right. And where were you born?

24 THE JUROR: Puerto Rico.

25 THE COURT: Thank you. All right Prospective Juror

E6GAASER3

Jury Voir Dire

1 No. 12.

2 THE JUROR: I am 30 years old. Live in the Bronx for
3 the past 16 years, married two kids. My wife is a travel
4 agent. The kids are in school. I work as a doorman. Watch TV
5 shows, sports. I read the papers everyday.

6 THE COURT: What kind of papers?

7 THE JUROR: Daily News, Post, New York Times.

8 THE COURT: All right. Thank you.

9 All right. Alternate Number One, tell us a little bit
10 about yourself.

11 THE JUROR: I am 30 years old. I live in the Bronx
12 for seven years and I got divorced and I live with my family.

13 THE COURT: All right. Do you have a job.

14 THE JUROR: Yes.

15 THE COURT: What type of occupation?

16 THE JUROR: Retail shop.

17 THE COURT: I see. And your family members, what
18 kinds of outside occupations, if any, do they have that you
19 live with?

20 THE JUROR: They also work in the retail store like
21 Sears and Macy's.

22 THE COURT: Do you watch any TV shows regularly?

23 THE JUROR: When I have a chance.

24 THE COURT: What kind?

25 THE JUROR: Anything with my family members.

E6GAASER3

Jury Voir Dire

1 THE COURT: All right. And do you read any newspapers
2 on a regular basis or magazines?

3 THE JUROR: Sometimes.

4 THE COURT: Which kind, which magazines or newspapers?

5 THE JUROR: Time.

6 THE COURT: All right. Anything else?

7 THE JUROR: No.

8 THE COURT: All right. Thank you. Alternate number
9 2.

10 THE JUROR: I am 60. I was born and raised in
11 Manhattan as well. I work for a newspaper. And I have for the
12 past 25 years and my husband is an editor and I have a son
13 who's a student.

14 THE COURT: And what is your position with the
15 newspaper?

16 THE JUROR: I am the program director for conferences.

17 THE COURT: OK. You watch any TV shows regularly?

18 THE JUROR: Net Flicks and news and public affairs.

19 THE COURT: And do you read the newspaper that you
20 work for?

21 THE DEFENDANT: Yes.

22 THE COURT: Regularly?

23 THE JUROR: Yes.

24 THE COURT: Do you read any other newspapers
25 regularly?

E6GAASER3

Jury Voir Dire

1 THE JUROR: Yes, all the competition and the New
2 Yorker.

3 THE COURT: All right. So you read sort of a variety
4 of newspapers everyday?

5 THE JUROR: Oh, yeah.

6 THE COURT: All right. Thank you.

7 All right, counsel, now, ladies and gentlemen, we're
8 on to our next phase. Let me describe to you how this works.
9 There is a process now that we call preemptory challenges which
10 is the opportunity for the lawyers to strike jurors for any
11 reason that is lawful that they want, so we don't inquire into
12 why and you should not think about or speculate as to why, all
13 right. If you are struck somebody will be pulled from back
14 there and we'll go through a process with whoever the
15 replacements are and there are six rounds of this, all right.
16 And so we're going to go through it boom, boom, boom. And then
17 after that is when we're done all right. So, again, do not
18 think twice if you are struck about why. Just take your card
19 and you'll return to the jury room.

20 OK. Counsel, we're going to start with our first
21 round. And I should say that the alternates are actually a
22 separate round. It's the peremptories right now are against
23 the first 12.

24 So the two of you, Alternates One and Two, you won't
25 hear your names called in this first round. After we go

E6GAASER3

Jury Voir Dire

1 through the peremptories there's one separate round for the
2 alternates, all right.

3 Ladies and gentlemen, whoever ends up on the jury
4 you'll hear me talk about how you are all allowed to have
5 coffee on the jury box or water or soda. I have what's called
6 what's good for the goose is good for the gander. Fair is
7 fair. I am not going to sit up here and drink it unless I let
8 everybody do the same thing.

9 Let's turn over the first Post-it.

10 (Pause)

11 COURTROOM DEPUTY: Juror No. 3, Thomas Buckley; Juror
12 No. 5 Isabel Tirado and Juror No. 11 Isabel Figueroa.

13 (Pause)

14 THE COURT: All right. So we're going to call three
15 names from the back.

16 COURTROOM DEPUTY: Prospective Juror No. 3, Matthew
17 Jones, J-O-N-E-S. Mr. Jones, please, take the third seat in
18 the first row.

19 Prospective Juror No. 5, Charles Stevenson,
20 S-T-E-V-E-N-S-O-N.

21 Mr. Stevenson, please, take the fifth seat in the
22 first row.

23 Prospective Juror No. 11 Eric T. Saletin,
24 S-A-L-E-T-I-N. Sir, please, take the fourth seat in the second
25 row.

E6GAASER3

Jury Voir Dire

1 (Pause)

2 THE COURT: All right. Prospective Juror No. 3, you
3 heard me ask a number of questions earlier. Were there any to
4 which you would have had a "yes" answer?

5 THE JUROR: A couple of them yes.

6 THE COURT: Which ones?

7 THE JUROR: Relatives in law enforcement and victims
8 of crime.

9 THE COURT: OK. Who do you know who is in law
10 enforcement?

11 THE JUROR: Two of my siblings.

12 THE COURT: All right. And which law enforcement
13 agency are they employed by?

14 THE JUROR: Ones an officer in a Westchester County
15 town and ones a dispatcher in another state.

16 THE COURT: OK. Is there anything about your
17 siblings' employment in law enforcement that make you believe
18 you could not be fair and impartial in this case?

19 THE JUROR: No.

20 THE COURT: And we'll take the crime issue in a moment
21 down hear. Now, Prospective Juror No. 5, were there any
22 questions to which you would have had a "yes" answer?

23 THE JUROR: No.

24 THE COURT: All right. And then Prospective Juror No.
25 11, yeah, you, were there any questions to which you would have

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Jury Voir Dire

1 had a "yes" answer?

2 THE JUROR: Yes.

3 THE COURT: All right. Which ones?

4 THE JUROR: The one regarding knowing one who was
5 convicted and put away for something very similar to this.
6 Actually, it my uncle's best friend had gone away for seven
7 years. So we were very close, sent away for selling drugs.

8 THE COURT: Was your uncle's friend, did you spend
9 time with that individual?

10 THE JUROR: Yeah, the whole family.

11 THE COURT: And we'll take that down here in just a
12 moment.

13 Anything else?

14 THE JUROR: No.

15 THE COURT: All right. So why don't we have
16 prospective Juror No. 3, why don't you come on down. We'll ask
17 you know another question.

18 (Continued on next page)

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E6GAASER3

Jury Voir Dire

1 (Sidebar)

2 THE COURT: All right. Prospective Juror No. 3, was
3 it you or someone close to you that was a victim of a crime?

4 THE JUROR: Me, yeah, my family.

5 THE COURT: OK. And how long ago was it?

6 THE JUROR: About three years ago.

7 THE COURT: And what was the nature of the crime?

8 THE JUROR: Our house was robbed.

9 THE COURT: Were you home when it was robbed?

10 THE JUROR: No.

11 THE COURT: OK. And do you know if the robber was
12 ever found?

13 THE JUROR: No, I don't believe so.

14 THE COURT: Is there anything about your experience as
15 being the victim of a robbery that makes you feel that you
16 couldn't be fair and impartial in this case?

17 THE JUROR: No.

18 THE COURT: You know that this case involves
19 allegations that the defendant was involved with robberies?

20 THE JUROR: Yes.

21 THE COURT: OK. You believe you can be fair and
22 impartial?

23 THE JUROR: Yeah.

24 THE COURT: OK. All right. You can go back.

25 THE JUROR: Thank you.

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Jury Voir Dire

1 (Juror not present)

2 THE COURT: Counsel, anything else about the
3 individual or anybody else?

4 MS. MAIMIN: No.

5 MR. DE CASTRO: No.

6 THE COURT: All right. Number 11, come on over, sir.

7 (Juror present)

8 THE COURT: All right. Sir, so I just wanted to
9 inquire a little bit more about that situation with your
10 uncle's friend.

11 THE JUROR: Sure. So --

12 THE COURT: There are lots of people who were
13 convicted of crimes and the question for you ultimately is if
14 you think you can be fair and impartial in this case even
15 though there was a situation?

16 THE JUROR: It's so similar I think I would be
17 impartial because I saw how it affected our whole family.

18 THE COURT: You mean you would be partial?

19 THE JUROR: Yes, I think so.

20 THE COURT: You mean you think you would be biased?

21 THE JUROR: He was put away for seven years and there
22 was a lot of things I thought were wrong with that idea, so I
23 thought --

24 THE COURT: You understand that the period of time if
25 there was a conflict if there was, the penalty is determined by

E6GAASER3

Jury Voir Dire

1 the Court. Do you understand that is not determined about the
2 jury?

3 THE JUROR: I still think I would be not so good on
4 this, yeah.

5 THE COURT: OK. All right. So you are excused.

6 (Juror not present)

7 THE COURT: All right. Counsel, anything on that?

8 MS. MAIMIN: No objection.

9 MR. DE CASTRO: No objection.

10 THE COURT: Thank you.

11 (Continued on next page)

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Jury Voir Dire

1 (In Open Court)

2 COURTROOM DEPUTY: Prospective Juror No. 11 Jean Marie
3 Cannon, C-A-N-N-O-N.

4 Ms. Cannon, please, take the fourth seat in the second
5 row.

6 THE COURT: All right. Prospective Juror No. 11, were
7 there any questions to which you would have had a "yes" answer?

8 THE JUROR: Yes. I have a first cousin in the NYPD
9 and we're not very close. I did serve on a criminal trial. We
10 did deliberate and reach a verdict.

11 THE COURT: Any other question with a "yes" answer to?

12 THE JUROR: No.

13 THE COURT: Is there anything about your cousin's
14 employment by NYPD that makes you feel like you couldn't be
15 fair and impartial here?

16 THE JUROR: No.

17 THE COURT: In terms of your service on a criminal
18 case as a juror, is there anything about that prior jury
19 experience that makes you feel you couldn't be fair and
20 impartial as a juror here?

21 THE JUROR: No.

22 THE COURT: OK. So, now what we are going to do is
23 hear about the biographical information from three, five and
24 11.

25 Three, why don't you tell us a little bit about

E6GAASER3

Jury Voir Dire

1 yourself.

2 THE JUROR: I am 49 years old, born and raised in
3 Westchester County, married, I have two children. I have been
4 a Postal worker for about 20 years until the end of the month.
5 I like to watch comedy on TV. I don't have spare time and
6 that's about it, I guess. Oh, I have a master degree in
7 accounting.

8 THE COURT: OK. All right. Thank you. Prospective
9 Juror No. 5.

10 THE JUROR: Good morning. I am 59. Recently
11 divorced. I have two sons, pretty much adults. I make TV
12 shows. I make reality crime -- for CBS. So that might have
13 some relevance and I read a lot of newspapers. I read the Post
14 and the Daily News and the New York Times and I don't watch
15 much TV.

16 THE COURT: Do you watch reality TV at all?

17 THE JUROR: No.

18 THE COURT: Do you watch crime shows at all?

19 THE JUROR: Occasionally.

20 THE COURT: Is there anything about your job as
21 related to crime shows that are reality based that makes you
22 feel you could not be fair and impartial in this criminal case?

23 THE JUROR: No.

24 THE COURT: Prospective Juror No. 11.

25 THE JUROR: I am 49 years old. I've lived in this

E6GAASER3

Jury Voir Dire

1 area my whole life. I live on the upper east side. I am a
2 registered nurse. I've worked at New York Presbyterian for 25
3 years, pediatric critical care and infection control. I am
4 single. Never been married. I don't have children. Spare
5 time, I read a lot. I read a lot of online journals and blogs
6 and things like that. TV, anything BBC pretty much.

7 THE COURT: When you say you read a lot, is there a
8 particular area?

9 THE JUROR: Politics, history, things like that.

10 THE COURT: Do you watch anything regularly apart from
11 the news?

12 THE JUROR: Games of Thrones this week.

13 THE COURT: All right. Thank you. We are going on to
14 round two. I always have that temptation to have that Jeopardy
15 song play.

16 (Pause)

17 THE COURT: All right. Then we'll do the same process
18 again. Whoever is struck, take your card, don't think about
19 it, then Joe will call some people randomly to fill-in.

20 COURTROOM DEPUTY: Juror No. 3 Matthew Jones; Juror
21 No. 5, Charles Stevenson; Juror No. 11, Jean Marie Cannon.

22 (Pause)

23 COURTROOM DEPUTY: Prospective Juror No. 3, Peter
24 Landsman, L-A-N-D-S-M-A-N. Mr. Landsman, please, take the
25 third seat in the first row.

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Jury Voir Dire

1 Prospective Juror No. 5, John F. Duarte, D-U-A-R-T-E.
2 Mr. Duarte, please, take the fifth seat in the first
3 row.

4 And Prospective Juror No. 11, Paulianda J. Jones.
5 Ms. Jones, please, take the fourth seat in the second row.

6 All right. Prospective Juror No. 3, you heard me ask
7 a number of questions. Were there any to which you would have
8 had a "yes" answer?

9 THE JUROR: I served in a jury on a civil court that
10 didn't go to trial, that didn't finish and it won't prejudice
11 me, nothing that would prejudice me. You asked if I am biased
12 about a member of the Justice Department. Well, yes. He's in
13 contempt of Congress, Attorney General Holder. I am biased
14 against him for what I perceive as misbehavior.

15 THE COURT: All right. If you hold that view why
16 don't you go ahead and step down because the prosecution is
17 brought in the name of the United States of America and
18 Attorney General Holder is ultimately --

19 THE JUROR: Represents everybody.

20 THE COURT: Well, the government, not the defendant.
21 So, in light of that personal view we'll just have you step
22 down and we'll fill-in in just a moment.

23 (Pause)

24 THE COURT: Let me ask Prospective Juror No. 5, were
25 there any questions which I asked earlier to which you would

E6GAASER3

Jury Voir Dire

1 have had a "yes" answer?

2 THE JUROR: Yes.

3 THE COURT: Which ones?

4 THE JUROR: One that I've known many guys who have
5 been in the business of drug dealing. And the second is I may
6 be biased toward NYPD officers at one point.

7 THE COURT: You mean biased in their favor or against
8 them?

9 THE JUROR: Against them.

10 THE COURT: Do you think you might be biased at some
11 point, biased now or do you think that's a point that could be
12 reached?

13 THE JUROR: I just don't really know.

14 THE COURT: All right. You said you knew a number of
15 individuals involved in the drug trade?

16 THE JUROR: Yes.

17 THE COURT: Were any of those individuals prosecuted?

18 THE JUROR: When I was growing up a few of them were
19 prosecuted. But as a matter of fact one of the guys whom I
20 grew up with was actually put in jail, served time and then
21 deported to the Dominican Republic.

22 THE COURT: All right. Let me just ask, let me go
23 with Juror No. 11 for a moment. Were there any questions to
24 which you would have had a "yes" answer?

25 THE JUROR: Yes. The relative that may have been

E6GAASER3

Jury Voir Dire

1 prosecuted for drugs or trafficking. So that was the "yes"
2 answer.

3 THE COURT: All right. Any others?

4 THE JUROR: No.

5 THE COURT: All right. And why don't we, Juror No. 5,
6 why don't you go on ahead. You can get your card from Joe and
7 we're going to fill-in spots three and five and then we're
8 going to come back to you, Juror No. 11, in a moment.

9 (Pause)

10 COURTROOM DEPUTY: Prospective Juror No. 3, Katherine
11 M. Brant, B-R-A-N-T.

12 Ms. Brant, please, take the third seat in the first
13 row.

14 Prospective Juror No. 5, Wilmore C. Wright,
15 W-R-I-G-H-T, W-I-L-M-O-R-E.

16 Mr. Wright, please, take the fifth seat in the first
17 row.

18 THE COURT: All right. Prospective Juror No. 3, were
19 there any questions to which you would have had a "yes" answer?

20 THE JUROR: No.

21 THE COURT: Prospective Juror No. 5, were there any
22 questions that I'd asked to which you would have had a "yes"
23 answer?

24 THE JUROR: No.

25 THE COURT: All right. I am going to have 11 come

E6GAASER3

Jury Voir Dire

1 down just for a moment and then we'll going to do a little bit
2 of a biographical statement from you folks.

3 (Continued on next page)

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E6GAASER3

Jury Voir Dire

1 (Sidebar)

2 THE COURT: All right. Prospective Juror No. 11,
3 whose relationship was that individual who was prosecuted for a
4 drug crime?

5 THE JUROR: A first cousin.

6 THE COURT: How long was it?

7 THE JUROR: Maybe seven years ago.

8 THE COURT: Was in the New York City area or some
9 place else?

10 THE JUROR: Yes.

11 THE COURT: Were you close or are you close to that
12 cousin?

13 THE JUROR: Relative, yeah, family gatherings.

14 THE COURT: And was that individual incarcerated as a
15 result?

16 THE JUROR: I think he was deported.

17 THE COURT: OK. And was he convicted or did he plead
18 guilty to that crime?

19 THE JUROR: That, I am not sure about.

20 THE COURT: OK. Is there anything about that
21 experience of having a relative be convicted for a drug crime
22 and deported that makes you feel you could not be fair and
23 impartial in this case which involves as you know a drug
24 allegation of drug conspiracy in part?

25 THE JUROR: Yeah, I think -- yes, I feel like I would

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Jury Voir Dire

1 be slightly biased.

2 THE COURT: OK. All right. And would that bias be
3 against the government or in favor of the government?

4 THE JUROR: Probably against.

5 THE COURT: OK. So, you would be looking more towards
6 the defendant?

7 THE JUROR: Right.

8 THE COURT: All right. You can go ahead and get your
9 card from Joe and head on back. Thank you.

10 (Juror not present)

11
12 THE COURT: All right. Counsel, anything else or
13 anything any of questions on what I've done so far? I always
14 check in.

15 MR. DE CASTRO: The only thing was Ms. Baumann, I
16 think she's number six, I think you didn't get the news. I
17 don't think you asked about the news. I don't have any note on
18 that.

19 THE COURT: Anything else?

20 (Continued on next page)

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Jury Voir Dire

1 (In Open Court)

2 THE COURT: Number six, where do you get your news
3 from?

4 THE JUROR: I read A.M. New York.

5 THE COURT: OK. All right.

6 COURTROOM DEPUTY: Prospective Juror No. 11, Ashley C.
7 Bleser, B-L-E-S-E-R, please, take the fourth seat in the second
8 row.

9 THE COURT: All right. Prospective Juror No. 11, were
10 there any questions to which you would have had a "yes" answer?

11 THE JUROR: No.

12 THE COURT: Prospective Juror No. 3, tell us a little
13 bit about yourself.

14 THE JUROR: I am 29. I grew up in manhattan. I live
15 in the West Village with my boyfriend. I am a teacher. I have
16 my masters in early childhood general and special ed. I enjoy
17 reading, books and New York Times. I watch Law and Order and
18 National Geographic. I enjoy exercising.

19 THE COURT: All right. Thank you. What does your
20 boyfriend do?

21 THE JUROR: He is in real estate management.

22 THE COURT: All right. Thank you. Prospective Juror
23 No. 5, tell us a little bit about yourself.

24 THE JUROR: I am 48 years old. I live in the Bronx
25 for 27 years, married 35 years, three kids, all educated,

E6GAASER3

Jury Voir Dire

1 graduated from college. I work at Maimonides Hospital in
2 Brooklyn as a nursing attendant. And I read anything, watch
3 TV, news, that's about it.

4 THE COURT: All right. And what kind, if any, TV
5 shows that you watch regularly apart from news?

6 THE JUROR: Sports and -- channels, that's it about
7 it.

8 THE COURT: What do your kids do?

9 THE JUROR: One is a social worker, one is a computer
10 tech and the other does, she's a chemical tech in a sense.

11 THE COURT: All right. Thank you.

12 Prospective Juror No. 11, tell us a little bit about
13 yourself.

14 THE JUROR: I am 31 years old. I live on the Upper
15 West Side with my husband. He's a New York City school
16 teacher. I'm a dental student. I don't read much many
17 magazines or anything. And I watch some BBC shows like Downton
18 Abbey and -- Midwife.

19 THE COURT: All right. Thank you.

20 All right. We are going to go on to the third round
21 and which are going to try to check our Post-Its just as soon
22 as we can.

23 (Pause)

24 COURTROOM DEPUTY: Juror No. 8, Peter Nowicki; Juror
25 No. 11 Ashley Bleser.

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Jury Voir Dire

1 (Pause)

2 THE COURT: All right. So we're going to fill-in
3 eight and 11.

4 COURTROOM DEPUTY: Prospective Juror No. 8, Bridget A.
5 Connolly, C-O-N-N-O-L-L-Y.

6 Ms. Connolly, please, take the first seat in the
7 second row.

8 And Prospective Juror No. 11, Gerard J. Magowan, Jr.
9 M-C-G-O-W-A-N. Mr. McGowan, please, take the fourth seat in
10 the second row.

11 THE COURT: Prospective Juror No. 8, were there any
12 questions to which you would have had a "yes" answer?

13 THE JUROR: Yes.

14 THE COURT: Which ones?

15 THE JUROR: Victim of crime.

16 THE COURT: Okay. Any others?

17 THE JUROR: I would be biased in favor of the NYPD.

18 THE COURT: All right. Do you know somebody who works
19 for the NYPD.

20 THE JUROR: No. They're at my job since 9/11. They
21 protect where I work.

22 THE COURT: I see. And so you think you'd be biased
23 in favor of them?

24 THE JUROR: Yes.

25 THE COURT: All right. Well, you can go ahead and

E6GAASER3

Jury Voir Dire

1 step down.

2 Prospective Juror No. 11, were there any questions to
3 which you would have had a "yes" answer?

4 THE JUROR: Yes.

5 THE COURT: Which ones?

6 THE JUROR: I am a patent attorney, so the law
7 question. My grandfather was a police officer. That was a
8 long time ago. I was the victim of a crime a long time ago and
9 I have served on a jury.

10 THE COURT: OK. Let's go through those. Is the fact
11 that you are a patent attorney do you think that that will make
12 you unable to review the evidence in this case in a fair and
13 impartial manner?

14 THE JUROR: No.

15 THE COURT: And the fact that your grandfather was a
16 member of law enforcement, do you think that that would make
17 you unable to be fair and impartial?

18 THE JUROR: No.

19 THE COURT: And your jury service, how many times did
20 you serve as a juror?

21 THE JUROR: Once.

22 THE COURT: Was it criminal or civil?

23 THE JUROR: Civil.

24 THE COURT: Without telling me what the result was,
25 did it reach a verdict or did it settle?

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Jury Voir Dire

1 THE JUROR: It did.

2 THE COURT: Is there anything about your prior jury
3 service that makes you feel that you couldn't be fair and
4 impartial?

5 THE JUROR: No.

6 THE COURT: All right. We are going to take the crime
7 in just a moment. Let's fill-in number eight first.

8 COURTROOM DEPUTY: Prospective Juror No. 8, Dwayne
9 Iverson, I-V-E-R-S-O-N.

10 Mr. Iverson, take the first seat in the second row.

11 THE COURT: All right. Prospective Juror No. 8, were
12 there any questions to which you would have had a "yes" answer?

13 THE JUROR: Yes.

14 THE COURT: Which ones?

15 THE JUROR: I've been on jury duty.

16 THE COURT: Anything else?

17 THE JUROR: I have an uncle that retired from the
18 NYPD.

19 THE COURT: All right. Anything else?

20 THE JUROR: I think that's about it.

21 THE COURT: All right. So how many times did you
22 serve as a juror before?

23 THE JUROR: Four times.

24 THE COURT: Criminal or civil?

25 THE JUROR: Both.

E6GAASER3

Jury Voir Dire

1 THE COURT: How many criminal? How many civil?

2 THE JUROR: Two and two.

3 THE COURT: All right. And for the criminal, did it
4 reach a verdict?

5 THE JUROR: Yes.

6 THE COURT: For the civil did it go all the way to
7 verdict?

8 THE JUROR: One did and one settled.

9 THE COURT: Is there anything about the fact that you
10 were or anything to do with the fact that you were on jury
11 service before and that you served as a juror that makes you
12 feel you can't be fair and impartial here?

13 THE JUROR: No. I was even on the grand jury too.

14 THE COURT: Anything about that service that makes you
15 feel you can't be fair and impartial?

16 THE JUROR: No.

17 THE COURT: All right. Now, you had a relative who
18 was NYPD?

19 THE JUROR: Yeah. He was borough chief.

20 THE COURT: All right. And that was your uncle?

21 THE JUROR: Yeah.

22 THE COURT: And is that individual, he is still
23 employed by the NYPD?

24 THE JUROR: He retired more than 15 years there, so a
25 long time.

E6GAASER3

Jury Voir Dire

1 THE COURT: All right. Is there anything about your
2 uncle's prior employment with the NYPD that makes you feel you
3 could be fair and impartial here?

4 THE JUROR: No.

5 THE COURT: All right. Let's take number 11, why
6 don't you come on down.

7 (Continued on next page)

E6GAASER3

Jury Voir Dire

1 (Sidebar).

2 THE COURT: All right. Sir, victim of a crime?

3 THE JUROR: I was.

4 THE COURT: How long ago?

5 THE JUROR: Long time ago. It was like 1980 or.

6 THE COURT: What was the nature of the crime?

7 THE JUROR: I was mugged. Someone held a gun to my
8 head and took my wallet.

9 THE COURT: Did they ever find the perpetrator?

10 THE JUROR: No.

11 THE COURT: Is there anything about your experience as
12 a victim of that crime that makes you feel that you couldn't be
13 fair --

14 THE JUROR: No, I don't think so.

15 THE COURT: You know that there's gun charge in this
16 case.

17 THE JUROR: I do.

18 THE COURT: Will you be able a listen to that
19 evidence?

20 THE JUROR: Sure. We were also burglarized too and
21 they didn't catch them.

22 THE COURT: When was that?

23 THE JUROR: Mid 80s, early 80s.

24 THE COURT: Is there anything about that experience --

25 THE JUROR: No.

E6GAASER3

Jury Voir Dire

1 THE COURT: OK. All right, counsel. You can go on
2 back.

3 (Juror not present)

4 THE COURT: Mr. de Castro, just want that make sure
5 anybody have anything to raise to raise it now.

6 (Continued on next page)

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E6GAASER3

Jury Voir Dire

1 (In Open Court)

2 THE COURT: All right. I am going to have numbers
3 eight and 11.

4 Tell us a little bit about yourself, number 8.

5 THE JUROR: Dwayne Iverson, born and raised in the
6 Bronx, not married, no kids 50 years old. I am in the
7 technology field. Now, I work at ABC, ESP and Disney as a
8 voice network engineer. I read anything from technology
9 magazines to food and wine and GQ magazine. It all depends.
10 My spare time, a little sports here and there and that's about
11 it.

12 THE COURT: Who did you route for last night?

13 THE JUROR: Spurs.

14 THE COURT: All right. Thank you, sir.

15 Prospective Juror No. 11, tell us a little about
16 yourself.

17 THE JUROR: 60 years old. I was born here. I live in
18 Westchester County. I live alone. I have been a patent
19 attorney for the last 28 years. I work for June Lever in New
20 Jersey. I've never been married. My highest schooling is law
21 school. I try to get a lot of exercise, a lot of jogging. I
22 read James Patterson novels, that kind of thing. I try to read
23 The Times or the Wall Street Journal every day or so from
24 Google News. I don't watch too much television, Criminal
25 Minds. I like Law and Order, that kind of thing.

E6GAASER3

Jury Voir Dire

1 THE COURT: All right. Thank you. All right. So we
2 are going to pick up our Post-Its. We are getting there, by
3 the way. Hopefully, we'll get there before lunch.

4 (Pause)

5 COURTROOM DEPUTY: Prospective Juror No. 7 Miriam
6 Green and number 11, Gerard McGowan.

7 (Pause)

8 COURTROOM DEPUTY: Prospective Juror No. 7 Karene
9 Cole-Bailey. Please, take the last seat in the first row.

10 And Prospective Juror No. 11, Karen M. Ross, R-O-S-S.
11 Ms. Ross, please, take the fourth seat in the second row.

12 THE COURT: All right. Prospective Juror No. 7, were
13 there any questions to which you would have had a "yes" answer?

14 THE JUROR: No.

15 THE COURT: All right. Number 11, how about you?

16 THE JUROR: Yes. Legal training. I am an attorney.
17 I work for the New York City Law Department.

18 THE COURT: OK. Anything else?

19 THE JUROR: I was on a jury and that was like 30 years
20 ago, so I don't remember anything about it but I believe it was
21 civil.

22 THE COURT: Anything else?

23 THE JUROR: That's it.

24 THE COURT: OK. So you're a lawyer and you work for
25 the New York City Law Department?

E6GAASER3

Jury Voir Dire

1 THE JUROR: Correct.

2 THE COURT: Do you have a particular area you work in?

3 THE JUROR: Commercial litigation.

4 THE COURT: OK. Do you do any criminal law?

5 THE JUROR: I don't.

6 THE COURT: OK. Do you do -- when you say "commercial
7 litigation" do you handle any 1983 cases or anything like that?

8 THE JUROR: I don't.

9 THE COURT: Is there anything about your legal
10 training or the fact that you are employed by the New York City
11 Law Department the makes you feel that you could be fair and
12 impartial in this case?

13 THE JUROR: No.

14 THE COURT: Would you be able to follow my
15 instructions on the law?

16 THE JUROR: Yes.

17 THE COURT: All right. How about the fact that you
18 were a juror, is there anything about that prior jury service
19 that you feel would make you unable to be fair and impartial?

20 THE JUROR: No.

21 THE COURT: All right. Thank you.

22 Juror No. 7, tell us a little bit about yourself.

23 THE JUROR: Sure. I am 44 years old. I lived in this
24 country for maybe 18 years, originally from Jamaica West
25 Indies. I worked for a venture capital company and I live in

E6GAASER3

Jury Voir Dire

1 Westchester with my 11 year old daughter. In my spare time
2 school is out I do watch television. In fact I do watch 24 and
3 Gang Related.

4 THE COURT: All right. Thank you. And do you read
5 any newspapers on a regular basis?

6 THE JUROR: Yes. New York Times, Wall Street Journal,
7 BBC News I watch.

8 THE COURT: All right. Thank you. Prospective Juror
9 No. 11, tell us a little bit about yourself.

10 THE JUROR: 56. I was born here and I live in
11 Manhattan. My husband is an attorney as well.

12 THE COURT: What kind of attorney is he?

13 THE JUROR: He does real estate transactions.

14 THE COURT: Anything about his position as an attorney
15 that makes you feel you couldn't be fair and impartial?

16 THE JUROR: No.

17 THE COURT: All right.

18 THE JUROR: Two daughters, neither of them are
19 employed, both are in school. One of them just finished
20 school, college looking for work. Anyone has any ideas. I
21 read. I spend time with my family. I go to the gym. I read
22 New York Times. I read the New Yorker. I don't watch a whole
23 lot of television but I watch sometimes I watch Rachel Maddow.
24 I watch The Daily Show.

25 THE COURT: All right. Thank you. OK. Round number

E6GAASER3

Jury Voir Dire

1 five, let's get our Post-Its.

2 (Pause)

3 COURTROOM DEPUTY: Juror No. 11 Karen Ross.

4 THE COURT: All right. We're going to fill-in that
5 spot and then we're going to go on to our last round for the
6 12th. All right.

7 COURTROOM DEPUTY: Prospective Juror No. 11, Patricia
8 G. Dong. Ms. Dong, please, take the fourth seat in the second
9 row.

10 THE COURT: All right. Prospective Juror No. 11, you
11 are dressed appropriately even though it's 80 degrees outside.
12 I don't know how you thought ahead but you were right. Were
13 there any questions that I asked to which you would have had a
14 "yes" answer?

15 THE JUROR: I was on jury duty. It was a civil case.
16 It went to decision. There's nothing that would make me bias.

17 THE COURT: Any other questions to which you would
18 have had a "yes" answer?

19 THE JUROR: No.

20 THE COURT: Tell us a bill little bit about yourself.

21 THE JUROR: I am 52, born in this country. I live in
22 northern Westchester County. I live with my husband and two
23 kids. I am an accountant. I work for a public accounting firm
24 in Danbury, Connecticut.

25 THE COURT: What does your husband do?

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Jury Voir Dire

1 THE JUROR: He is in a doctoral program for physical
2 therapy. Two quasi adult children, one's in college, one's out
3 of college. They're both unemployed. I have a master degree.
4 I read novels. Garden, work around my house. I don't read any
5 magazines or newspapers. I get my news pretty much from radio
6 and television. I watch British crime dramas.

7 THE COURT: All right. Thank you.

8 (Continued on next page)

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E6F7SER4

Voir dire

1 THE COURT: OK. We are into our last round, and we
2 have one round against the alternates. So one round, our last
3 round 12, and then one round after that against the alternates.

4 No strikes? All right. OK. We've got one round
5 against the alternates. Let's hand over the Post-its against
6 the alternates. We will fill them in if anyone is struck.

7 DEPUTY COURT CLERK: Alternate Juror 1, Shaymali R.
8 Chanda.

9 Prospective Alternate Juror 1, Lorri S. Pagan,
10 P-a-g-a-n or Pagan. Ms. Pagan, please take the seat that was
11 vacated, the second to last seat in the last row.

12 THE COURT: All right, Alternate 1, were there any
13 questions to which you would have had a yes answer?

14 JUROR: No.

15 THE COURT: Tell us a little bit about yourself.

16 JUROR: I'm 54 years old. I live in Westchester
17 County. I'm married, have a son 19 years old that goes to
18 college. I work for a wholesale company here in Manhattan.

19 THE COURT: And what's your job? What area are you
20 in?

21 JUROR: I'm in planning.

22 THE COURT: OK.

23 JUROR: I went to college at FIT, and in my spare time
24 I am an avid Yankees fan, and I read entertainment magazines
25 and trade publications. And television shows, I like reality

E6F7SER4

Voir dire

1 TV. And I get my news from the radio.

2 THE COURT: OK, thank you.

3 Ladies and gentlemen, I am asking counsel, now, is
4 there anything that should be raised with me at side bar before
5 we proceed to our next step?

6 MR. MUKHI: No, your Honor. MR. DE CASTRO No, your
7 Honor.

8 THE COURT: Thank you. Ladies and gentlemen, I am
9 pleased to say that we have completed jury selection in this
10 matter. Those of you who have not been selected, I want to
11 thank you for coming here and being part of the pool and ask
12 you to take your card and return down to the jury room, and
13 they will tell you what to do next. Joe will probably give the
14 cards to one person who can then hands them around. Thank you
15 very much.

16 And I am going to give you a couple of instructions in
17 a moment, and then we are going to dismiss you for lunch, so we
18 can have lunch before we come back and do our next piece, just
19 so you have a sense of where you're going. You are going to
20 get up and walk around in just a minute. All right?

21 All right. I am going to have Mr. Pecorino read out
22 the names of the jury, and then he will give you an oath,
23 another oath following that.

24 DEPUTY COURT CLERK: Juror 1, William A. Friedman;
25 Juror 2, Yolanda Rivera; Juror 3, Katherine M. Brant; Juror 4,

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Voir dire

1 Sarah W. Soong; Juror 5, Wilmore C. Wright; Juror 6, Sarah L.
2 Baumann; Juror 7, Karene Cole-Bailey; Juror 8, Dwayne Iverson;
3 Juror 9, Kachung Lai; Juror 10, Anthony R. Inoa; Juror 11,
4 Patricia G. Dong; Juror 12, Andy Camejo; Alternate Juror 1,
5 Lorri S. Pagan; Alternate Juror 2, Diane C. McNulty.

6 THE COURT: Thank you. Ladies and gentlemen, please
7 stand.

8 (A Jury of 12 and 2 alternates was selected and sworn)

9 THE COURT: You may be seated. Thank you. I am just
10 going to give you some short instructions now, and then what we
11 are going to do is we're going to break for lunch and come back
12 at 2 o'clock for opening statements, and then we're going to go
13 opening statements, which won't be particularly long, and then
14 right into the evidence. All right? So I am going to give you
15 a few preliminary instructions first.

16 You, ladies and gentlemen, members of the jury, are
17 the finders of fact in this criminal matter. I am not the one
18 who determines guilt or innocence here; that is for you to
19 decide; you are the finders of fact.

20 I, as I said, determine what evidence comes in, what
21 evidence stays out. I keep the courtroom orderly, and I also
22 instruct you on the law. But you are the finders of the facts.

23 Nothing I say is evidence, and nothing that the
24 lawyers say is evidence. Questions posed are never evidence.
25 Objections are not evidence. Only the testimony of witnesses

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1 who are here and are sworn and put under oath in your presence
2 is evidence in this case, along with whatever other evidence,
3 documents or physical evidence gets admitted into evidence.

4 In some instances there might be facts to which the
5 lawyers agree, and those are called stipulations, and I will
6 tell you specifically, OK, this is a stipulation of fact, and
7 you can also consider that as evidence.

8 Now, there are two kinds of evidence: Direct
9 evidence, something that you feel or someone feels, sees,
10 senses with a sense, tastes, touches, that's direct evidence --
11 hears.

12 There is also circumstantial evidence. Circumstantial
13 evidence is evidence where one fact is used to prove another
14 fact. It's like putting two and two together, if you will.
15 And let me give you an example. Let's assume for a moment that
16 you are on a desert island, and are you there and you are
17 alone, and you know you are alone, and you have been alone for
18 years, and one day you wake up and you see footprints of
19 someone of a human of a different size than your own
20 footprints. Now, you haven't seen that person, but you deduct
21 or infer based upon the fact that you have seen these
22 footprints that you are no longer alone. You have used the
23 circumstantial evidence of the footprint to infer the proof of
24 another fact or another fact.

25 Here is another example. You come in today, let's

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1 assume it's sunny outside, and over the course of the day you
2 see people coming in with umbrellas dripping wet, and you start
3 to realize I think it must be raining outside. You haven't
4 seen the rain because the blinds are pulled, but you infer
5 based upon the fact that you are seeing the umbrella dripping
6 wet that another fact, that it's raining outside, is true.

7 You can consider both kinds of evidence.

8 Now, you are going to hear from witnesses at this
9 trial, and they are going to be sworn and put under oath, and
10 they will be testifying from this jury box, and you will be the
11 ones who determine whether you believe them or don't believe
12 them. Right?

13 You determine the credibility of witnesses. How do
14 you do that? You watch them, you listen to them, and you
15 observe them. Every single day you decide in your own life
16 whether you believe or don't believe people, and you bring that
17 same common sense with you here to this courtroom. That's your
18 job as a juror; that's why we have juries which are juries of
19 our citizens.

20 So, you ask yourself do these people know what they
21 were talking about? Were they candid, open, honest? Did they
22 seem truthful to me? Did they seem to testify falsely? Did
23 they exaggerate? And all of these things go into your
24 determination as to whether they're lying or telling the truth.
25 And they might be untruthful in some respect and truthful in

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1 other respects. It doesn't have to be an all or nothing
2 proposition. It's for you to decide.

3 Now, the burden of proof here is very important for
4 you to understand. The government bears the burden of proof
5 throughout this trial. There is no burden of proof on the
6 defendant. The government must prove that the defendant is
7 guilty beyond a reasonable doubt before the defendant can be
8 found guilty. As I said before, the indictment in this matter,
9 which is the instrument which charges the defendant with the
10 crimes, that's not proof; that's just an accusation. The
11 defendant, therefore, starts out with a clean slate.

12 So, let's talk about this burden of proof a little bit
13 more. As I said before, the defendant could sit in silence
14 this whole trial. It is not for the defendant to prove his
15 innocence; it's for the government to prove beyond a reasonable
16 doubt that he is guilty. And it will be for you to determine
17 whether they have met that burden at the end of the case when
18 you have assessed all of the evidence.

19 Now it's very important for you to keep an open mind
20 throughout this case. Don't form any judgments until all the
21 evidence is in. Remember, the evidence comes in in pieces.
22 It's not like Law and Order where you see little bits and
23 pieces sort of where the camera is moving back and forth
24 between all of these moments all within a three minute
25 timeframe. Instead, you hear what one witness has to say, then

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1 you hear what another witness has to say, and then you might
2 hear another witness and another witness, and you put it all
3 together. It's not told in some linear fashion where one
4 person talks about day one and another person talks about day
5 two; it comes in in pieces. So, it's very important that you
6 keep an open mind and not rush to judgment. There are sides,
7 as you know, to any story, so you want to keep an open mind as
8 things proceed.

9 Now, don't talk to anybody about this case until I
10 tell you that you can, which will only be at the end of the
11 case, after all the evidence is in, after the closing
12 statements, so that's several days from now, when I will tell
13 you that you can talk to each other. But until you have
14 rendered a verdict, you cannot talk to anybody about this case,
15 nobody outside. You can't talk to your husbands, your spouses
16 or friends. You shouldn't update your Facebook profile with
17 "On a jury and here are my thoughts today." You can't tweet
18 about it. People really do these things, so we have to tell
19 you not to do these things.

20 So, this is very, very important that you only
21 consider the testimony and the evidence that comes in here in
22 this courtroom, and that you not listen to views of other
23 people who are friends of yours, and when you sort of talk, if
24 you talked about what happened during the day. We don't want
25 any of that happening.

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1 So, talk to no one about this case until the end of
2 the case when you will be able to talk to each other, and then
3 after a verdict is rendered I will release you from that oath.
4 You will hear my words "I now release you from your oath," and
5 then you can talk to whomever you want about the case. OK?
6 But until then, please, do not talk about this case. That
7 means you can't talk to each other, you can't walk into the
8 jury room and say, "hey, what did you think of so and so," or
9 "Gosh, I think such and such." Don't talk to each other about
10 the case. You can talk about the weather, you can talk about
11 Derek Jeter walking around on his farewell tour. I hear
12 Mariano Rivera has a son now pitching. Whatever you want to
13 talk about.

14 Now, lawyers, you are going to run into lawyers and
15 other folks associated with the case. They are told not to
16 talk to you. They are not being rude; they are not being
17 nasty. It's not that they don't recognize you. OK? They are
18 told they cannot talk to you, either side, anybody at those
19 tables. Why? Because it's just easier that way. Otherwise
20 somebody could think, oh, well, that so and so said hello to me
21 in a really friendly way, they want me to be bias for them.
22 It's just easier if I have an across-the-board rule no chit
23 chat with any of the folks at these two tables. OK? So they
24 are not allowed in an elevator to say hello; they are not
25 allowed in the bathroom to say hello, can't in the hallway say

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1 hello. If they run into you at the deli, they can't say hello.
2 That's the instruction. It can be a little awkward. Do not
3 hold it against them. It's my rule. It's just so that there
4 are no conversations about anything outside of this courtroom.
5 You folks should never be talking to counsel.

6 I use LiveNote. LiveNote is a direct feed to the
7 court reporter, which means that everything that's said --
8 although right now my screen is dark; I have to get it going
9 again -- is transmitted directly in a transcript form into my
10 computer. I'm not on Zappos, I'm not Googling or doing my
11 e-mail. When you see me looking at my computer, it's because
12 I'm listening to what is going on, and sometimes with an
13 objection it's easier if I look at it and see exactly what was
14 said.

15 Beverages in the courtroom, you are allowed to have
16 them. Bring in a bottle of water if you want, bring in soda if
17 you want. Bear in mind that if you drink a lot of soda you
18 might be looking for a break a little sooner rather than later,
19 but whatever makes you feel comfortable, that's the point.

20 And also I say to people do not bring in Doritos, but
21 if you've got some little snack, some soft snack that helps you
22 wile away the afternoon, I could care less, if it makes you
23 comfortable. Sometimes people really get uncomfortable if they
24 are too hungry. So, I want you folks to be comfortable and be
25 able to concentrate on the evidence, so we want to do what we

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1 need to do to have that occur.

2 Notes: You are going to be given a pad and a pen.
3 You don't have to ever take off the top of the pen or write on
4 the pad, but if you want to take notes, you can take notes.
5 The notes are just for you. It's however you learn best. And
6 sometimes people learn best when they take notes, sometimes
7 people don't need to take notes. There is never going to be a
8 moment when you are going to be allowed to or entitled to show
9 your notes to somebody else. So, your notes can't become
10 proof: Oh, I wrote it down, it must be so. No, notes are for
11 you. If it helps you, take notes. But there is a transcript
12 of everything that's said, and so later on if you are wondering
13 if a yes or no was asked to a particular question by a witness,
14 that will be able to be read back to you if you have a question
15 in the jury room. So, we have a whole record of what's going
16 on, but if you want to take notes, take notes. You will leave
17 them behind each night.

18 After we have lunch, we are going to leave right now,
19 and you are not going to talk to anybody about this case,
20 including each other, although you can talk about the most
21 recent episode of Game of Thrones, etc., etc. But when you
22 come back at two, we are going to have opening statements.
23 Opening statements are the lawyers' opportunity to give you a
24 road map, their view as to what the evidence is going to show.

25 Again, what lawyers say, either side, is never

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1 evidence. What is evidence is the testimony that actually
2 comes in and the other exhibits that are admitted. And it will
3 be for you to determine how you weigh the evidence. All right?

4 So, at 2 o'clock we will have opening statements. I
5 am going to ask you to come in at five minutes to two and be
6 ready, because we will come out right at two. I will try to be
7 very respectful of your time. If you folks can be on time with
8 our clock as well. Give yourself time -- you are not the only
9 jurors in the building -- to get through security downstairs.
10 Just bear that in mind, you can't walk from Foley Square at
11 five minutes to two and expect to get here by two. And we will
12 start every morning at 9:30 promptly, and we will go only until
13 five. You will be out of here at five. OK? I will see you at
14 2 o'clock. Thanks.

15 (Jury not present)

16 THE COURT: All right, ladies and gentlemen, let's all
17 be seated for one moment. I know you also have been sitting
18 here for some time, so I don't want to keep you longer than is
19 necessary.

20 First, is there anything that anyone would like to
21 raise?

22 MR. MUKHI: No, your Honor.

23 MR. DE CASTRO: No, your Honor.

24 THE COURT: All right. So, the second thing that I
25 wanted to address was Mr. Kolakowski, and I am going to

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1 preclude the cross-examination of Mr. Kolakowski on the topic
2 which we discussed for the following reason: I have reviewed
3 the materials that Ms. Gotlib had presented. I do see that
4 there are statements about apparently the audio of the tape and
5 that the audio of the tape would have revealed that Craig Lane,
6 I think was the individual's name, was in fact a speaker, and
7 it wasn't Mr. Boyd who was then later arrested and then held
8 for a period of time. There is a number of issues. One is
9 that the misidentification is not an issue here in terms of the
10 point that Mr. Kolakowski will be testifying to. As I
11 understand it, the nature of Mr. Kolakowski's testimony is
12 going to be on the surveillance and will not touch on those
13 issues which were raised in the Boyd case, and so the Boyd case
14 is not -- it's not on point, so it's not, I believe, relevant,
15 and also it doesn't go to credibility or veracity of Mr.
16 Kolakowski.

17 There are additional reasons that I could go into that
18 I think are unnecessary. For instance, there is a real issue I
19 think in that case as to whether or not the investigative work
20 was even what I was calling earlier shoddy. It appeared that
21 Mr. Kolakowski and others had read a transcript but had not
22 listened to the audio, so I wouldn't even want to go after or
23 suggest that there is anything that would be probative of the
24 thoroughness of investigative work, because I think that's an
25 open question indeed, and there of course was probable cause

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1 found. So for all of those reasons I don't deem that
2 particular line of questioning as relevant or proper in this
3 case, so that will be precluded.

4 Anything further we should do before we take our own
5 lunch?

6 MR. DE CASTRO: Nothing from the defense.

7 MR. MUKHI: No, your Honor.

8 THE COURT: All right. And tell us who the first
9 witness will be after the opening.

10 MR. MUKHI: The first witness will be detective Justin
11 Kealy, followed by Sergeant Kolakowski, Musante, followed by
12 Victor Moral, if we get to Moral. That will obviously take us
13 through the end of the day.

14 THE COURT: Thank you. We are adjourned until 2
15 o'clock. If anybody has anything that they believe needs to be
16 raised in advance, and you are all here, then you can just let
17 Joe know, otherwise I will just come out at two.

18 (Luncheon recess)

19 (Continued on next page)

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A F T E R N O O N S E S S I O N

2:00 p.m.

THE COURT: I understand the jury is here.

MS. MAIMIN: We wanted to advise the court that we have placed jury binders under the seats of the jurors containing transcripts of recordings, some of which are going to be played today.

THE COURT: Thank you. And have you given a copy of that binder to Mr. De Castro?

MS. MAIMIN: We have.

THE COURT: I will just instruct them not to touch that until the appropriate time. Thank you.

(Jury present)

THE COURT: Ladies and gentlemen of the jury, before we begin, I just want to tell you that placed under each of your chairs is a binder, which do not touch now, because we haven't gotten to it yet, but it's there because we will get into it with some of the witnesses. And I will give you some particular instructions as to how to turn to different tabs, when to turn to different tabs when we get there, but that's what is under your chairs right now.

All right. Would the government like to proceed.
Ms. Maimin?

MS. MAIMIN: Thank you, your Honor.

On October 14, 2012 a couple was driving down 171st

E6F7SER4

Opening - Ms. Maimin

1 Street in Washington Heights right here in Manhattan. They
2 heard a police siren, looked in the rearview mirror and saw
3 that they were being stopped. They pulled over and waited for
4 the police to approach their car. The police were wearing
5 bulletproof vests, and they had a gun.

6 Another member of the police team was just up the
7 block in another car, preventing the couple from fleeing during
8 the stop. But this was not the real police. This was actually
9 a team of armed robbers pretending to be the police, and they
10 were robbing that couple because they believed that the couple
11 was transporting cocaine in their car.

12 Armed with a gun, the robbers ordered the couple out
13 of their car, and the couple obeyed the robbers commands, but
14 even if they hadn't, they wouldn't have been able to escape.
15 because that man, the defendant, Anthony Serrano, was waiting
16 in the dark in his car, preventing that couple from escaping.
17 He was a member of that team of armed robbers, and one of his
18 jobs that night was to make sure the victims couldn't get away
19 before the robbers could steal their drugs.

20 The robbers pushed the couple up against their car and
21 wouldn't let them turn around. They asked for ID and had them
22 step away from the vehicle. The robbers then suddenly stole
23 the couple's car and drove away, leaving the couple stranded in
24 the street because this was no ordinary police stop, this was a
25 roadside robbery.

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Opening - Ms. Maimin

1 The defendant and his team of robbers wanted a car so
2 they could take it and search it for cocaine that they could
3 resell, and the defendant played a critical role that night.
4 He was involved in planning that robbery, in assigning everyone
5 their roles. He even supplied the gun. And when it came time
6 to do the robbery, he was right there down the block, using his
7 car to block the couple from escaping.

8 You are going to learn that this was not the first
9 time the defendant and his team of robbers stole drugs from
10 drug dealers, because that is what the defendant and his crew
11 did: They robbed drug dealers in order to resell the drugs on
12 the street, drugs they could sell for a hundred percent profit
13 because they stole them instead of buying them. And make no
14 mistake about it, ladies and gentlemen, it is just as much of a
15 crime to rob a drug dealer as it is a bank or a jewelry store.

16 So, that is why we're here, ladies and gentlemen. In
17 2012 and 2013 the defendant and his crew were on a crime spree.
18 They robbed drug dealers with force, and they broke into drug
19 dealers homes when they weren't there, all to get drugs that
20 they resold to their customers. For committing these offenses
21 the defendant has been charged with three crimes: A robbery
22 charge; a drug charge for the drugs that the crew stole and
23 resold; and a gun charge. Over the next few days you are going
24 to hear the evidence that proves to you that the defendant is
25 guilty of every one of these charges.

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Opening - Ms. Maimin

1 So, what will the evidence at this trial show? In
2 2012 the defendant joined a gang of robbers that operated in
3 New York City and New Jersey. This special method of the
4 defendant's crew is they dressed up like police officers during
5 robberies. They did this to catch their victims off guard and
6 make sure they didn't resist during the robbery. But if the
7 victims did resist, the crew was ready to respond with force.

8 Now, everyone had a different role in the crew. There
9 were the organizers, the look-outs, and there was the muscle,
10 people who were willing to face the victim and wave guns in
11 their faces.

12 What was the defendant's role? Well, he was a
13 critical member of this crew. He was one of the crew's
14 leaders. He decided who would participate in certain robberies
15 and what their jobs would be. But with one important
16 exception, which I will discuss in a moment, the defendant did
17 not usually go to the robberies himself. He didn't want to be
18 seen at the crime scene by the victims or anybody else. It's
19 just what you would expect from the boss of a robbery crew. It
20 was the defendant's way of doing things, his MO, to send other
21 people to do his dirty work, and then reap the profits himself
22 by selling the drugs that his crew robbed and stole.

23 But there was one robbery that the defendant did go
24 to, the attempted robbery I just mentioned, the one in
25 Washington Heights with that couple who they believed were

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Opening - Ms. Maimin

1 transporting cocaine. You are going to learn that the
2 defendant was involved in planning that crime, deciding that
3 the robbers would pretend to be police officers, conducting a
4 traffic stop on their victims. He was also involved in
5 deciding that the crew was going to use a special car that they
6 had outfitted to look like a police car. It had lights and
7 sirens, and it even had a special device when you pressed a
8 button a metal plate would go over the license plate so nobody
9 could see the license plate number, because they didn't want
10 anyone to write it down.

11 And you are going to learn that the defendant actually
12 went to that robbery himself, stalking the victims through the
13 streets of Manhattan with the other crew members, and used his
14 car to cut off the victims' escape while the other members of
15 the crew were holding them up. Then he went with the others to
16 a deserted area in New Jersey to ransack the car to find the
17 cocaine.

18 So, after that robbery, what was the crew's next big
19 job? Well, you will learn in December of 2012 the crew got a
20 tip from an inside source who worked with a heroin trafficking
21 organization. This source was providing inside information to
22 another member of the defendant's crew, a robber named Javion
23 Camacho. Camacho was the defendant's cousin, and he was also
24 one of the other robbers involved in that robbery of the couple
25 in Washington Heights.

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Opening - Ms. Maimin

1 The inside source told Camacho that there was an
2 upcoming massive shipment of heroin, more than 20 kilograms,
3 that the crew could rob. Camacho explained to the source that
4 his team dressed up as police officers to rob drug dealers at
5 gunpoint. He also explained that his fellow robbers, who he
6 even referred to as his family, had recently gotten its hands
7 on another large amount of heroin. You are also going to learn
8 that just two months earlier the defendant had gotten a
9 kilogram of heroin himself that was stolen from another drug
10 dealer.

11 Now, while Camacho is meeting with the source in
12 December 2012 and January 2013, he was also in close contact
13 with the defendant by phone. You are going to learn that right
14 around this very same time, just three days after Javion
15 Camacho stated that his team, his family, had just made a big
16 heroin score, the defendant sold heroin right out of his own
17 home to a confidential informant working with law enforcement
18 to get the defendant's heroin off the streets. The defendant
19 did this four times in the coming weeks alone, selling the
20 heroin that his robbery team had gotten into the business of
21 dealing right out of the front door of his home.

22 In the meantime, the crew was preparing for that big
23 new heroin robbery. On January 9, 2013 all of the pieces came
24 into place, and some of the crew members drove to the Bronx
25 that night to actually commit the robbery, more than 20 kilos

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Opening - Ms. Maimin

1 of heroin. 16 of them showed up dressed as police officers and
2 armed with six loaded guns. But what you will learn is unlike
3 that Washington Heights robbery of the couple, this robbery was
4 prevented by the DEA, the Drug Enforcement Administration, as
5 part of a sting operation. The heroin dealer did not actually
6 exist, so the inside source was actually a DEA informant. The
7 DEA had learned about the defendant's crew and had infiltrated
8 it.

9 You are going to learn that in the days leading up to
10 this attempted robbery, the defendant was in close phone
11 contact with other members of the crew, including his cousin
12 Javion Camacho. 28 phone communications with Javion Camacho in
13 the two days leading up to the robbery, 15 of which were on the
14 day of the robbery alone.

15 Now, the defendant did not actually go to that January
16 9th robbery of the heroin dealer, the one that turned out to be
17 a DEA sting, but he checked up on his cousin repeatedly during
18 the attempted robbery, repeatedly calling Camacho and another
19 crew member who was also arrested along with those 16 robbers.

20 You are going to learn that when those robbers were
21 arrested they were armed with loaded guns, handcuffs, zip ties,
22 a baseball bat and police gear, all the items that the
23 defendant and his crew used to rob drugs, just like they tried
24 to do on October 14, 2012 when the defendant and his fellow
25 crew members tried to rob that couple in Washington Heights.

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Opening - Ms. Maimin

1 That, ladies and gentlemen, is what the evidence at
2 this trial will show: The defendant is an armed robber and a
3 drug dealer. That is why we're here.

4 So, how will we prove this to you? Well, a lot of the
5 evidence is going to come in through witnesses. We will
6 discuss some of them now. First you are going to hear from law
7 enforcement witnesses. You will hear yourselves from the law
8 enforcement officers who saw the defendant selling heroin right
9 out of his own home, right after his cousin Javion Camacho, a
10 fellow robber, told the DEA informant that the crew had just
11 received a new supply of heroin.

12 You will also hear from the DEA agent that arranged
13 that sting operation, the one where the 16 people were
14 arrested. He will tell you how he learned about the
15 defendant's crew and the steps he took to catch them. He will
16 tell you how a DEA informant was recording his conversation
17 with Javion Camacho and others. So, you will actually hear
18 these recordings for yourself.

19 You will hear Camacho describe exactly how the
20 defendant's family of robbers operated. That agent will also
21 tell you about the night of that robbery sting when he arrested
22 the defendant's other crew members and found their loaded guns
23 and other robbery equipment.

24 And you will also hear from the police officer who
25 first responded to that robbery in Washington Heights after the

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Opening - Ms. Maimin

1 couple called 911. She will tell you about how she went to the
2 scene of the robbery and found that couple stranded in the
3 street.

4 So, what other types of witnesses are you going to
5 hear about? Well, you are going to hear from some of the
6 defendant's victims, that couple who was robbed in Washington
7 Heights, they will testify before you. You will learn that the
8 man actually was a drug dealer, although he didn't have any
9 drugs with him on the night of the robbery. You will learn
10 that that couple saw that they were being followed by a car
11 with a covered license plate. You will learn that they thought
12 they were being pulled over by police officers until the
13 robbers stole their car and left them stranded by the side of
14 the road.

15 Now, I expect that these victims will not be able to
16 pick out the defendant and identify him here by face as one of
17 their attackers, because, as usual, he made sure to stay away
18 from them during the robbery, letting others take the risk of
19 getting caught. He was up the block in the dark in his car
20 preventing the victims from escaping. But these victims will
21 tell you what they did see and what they do remember from the
22 night of the robbery, and one of these victims will tell you
23 that she remembers being blocked by a car that matches the
24 description of the defendant's car.

25 And at this trial you will also hear from one of the

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Opening - Ms. Maimin

1 robbery crew members himself. His name is Victor Moral. He
2 will tell you about how this crew operated from the inside, how
3 they targeted drug dealers and dressed up like the police, that
4 they carried guns and were prepared to use them.

5 Mr. Moral will tell you that in the fall of 2012 the
6 defendant sold a kilogram of heroin that Mr. Moral and others
7 had stolen from another drug dealer's house, and from then on
8 the defendant and Mr. Moral started planning robberies
9 together.

10 Mr. Moral will also tell you that he committed that
11 robbery of the couple in Washington Heights along with the
12 defendant, how he and the defendant shadowed that couple
13 through the streets of Manhattan, finally stopping their car,
14 pretending to be police officers. And Mr. Moral will tell you
15 that the defendant supplied the gun for that robbery. He will
16 also tell you that it was the defendant calling the shots that
17 night about who went where and who did what during the robbery,
18 that the defendant decided who would have to face the victim
19 and who would be permitted to sit in their car down the street
20 so that the victims could not identify them. Mr. Moral will
21 also tell you that he was arrested on January 9 in that DEA
22 sting.

23 Now, this witness will take you right to the heart of
24 the defendant's crimes like no other witness can, because he
25 too was a member of that robbery crew. Like the defendant,

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Opening - Ms. Maimin

1 Mr. Moral is a criminal. The crimes he committed include
2 violent robberies and murder. But this man has been caught and
3 prosecuted by the government. He pled guilty and is in jail
4 waiting to be sentenced for his crime.

5 Now, to be clear, Mr. Moral is not testifying out of
6 the goodness of his own heart, nor do I expect he will claim to
7 be. He will tell you that he is testifying because he is
8 hoping for a lower sentence. So, listen carefully when
9 Mr. Moral testifies, see whether his testimony lines up with
10 the other evidence, because when you do, you will see that his
11 testimony is backed up by all of the other evidence in this
12 case.

13 So, what will that other evidence be? Well, you are
14 going to see surveillance video in Washington Heights that
15 captured some of the events of that night live, of the couple's
16 robbery as they were happening. You are going to see the
17 couple's car being followed by that fake cop car, and you are
18 going to see that right in front of the victim's car was the
19 defendant's car waiting to box the victims in. You are even
20 going to see Javion Camacho on that video walking from the
21 defendant's car to the fake cop car at the direction of the
22 defendant.

23 What other evidence are you going to see? Well, you
24 are going to see physical evidence. You are going to see the
25 heroin that the defendant sold to the confidential informant on

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Opening - Ms. Maimin

1 four occasions while the police were washing.

2 You will also see the physical evidence that the DEA
3 seized off the defendant's crew after that sting operation.
4 You will see guns, bullets, the police shirts and vests, and
5 many other types of evidence that was seized on the night of
6 the robbery, everything that the defendant and his team used to
7 commit drug robberies.

8 You will also see that the DEA seized that fake police
9 car the night of the sting, that same police car that was used
10 to pull over the couple on the night of their robbery. You
11 will see photos and a video of that fake police car, including
12 of a special license plate device that covered the license
13 plate at the push of a button.

14 Finally, during this trial we are going to walk you
15 through the phone records of the defendant and his crew. You
16 will hear about something called cell phone location data for
17 the defendant's phone. This is information that the
18 defendant's phone company keeps about the location of his
19 phone. These records will confirm that on the night of the
20 robbery in Washington Heights the defendant drove from his home
21 in New Jersey to the scene of the robbery, was there at the
22 time the robbery was being committed, headed to a deserted area
23 in New Jersey, and then went home.

24 We will also show you the records that show the
25 defendant talking to Javion Camacho and another crew member

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Opening - Ms. Maimin

1 more than 70 times on the day and night of the Washington
2 Heights robbery.

3 By the end of this trial, all of this evidence will
4 prove to you that the defendant is guilty of all of the crimes
5 with which he is charged.

6 Until that time we ask you to do three things: First,
7 please pay close attention to the evidence; second, follow
8 Judge Forrest's instructions on the law. She will tell you how
9 to apply the law to this case. Third, please use your common
10 sense. You brought with you into this courtroom everything you
11 need to evaluate the evidence in this case. It's simply the
12 same common sense that you use in your everyday lives.

13 If you do those three things, you will return the only
14 verdict that is consistent with the law and with the evidence:
15 The defendant is a robber, he is a drug dealer and he uses guns
16 to commit these crimes, and he is guilty.

17 THE COURT: Thank you, Ms. Maimin.

18 Mr. De Castro.

19 MR. DE CASTRO: May it please the court, government,
20 ladies and gentlemen of the jury, Anthony Serrano is not guilty
21 of these crimes. He is not guilty of the drug conspiracy in
22 the indictment. He is not a member of a robbery crew that
23 steals drugs and sells them. There will be no direct evidence
24 of Mr. Serrano was selling any drugs that the robbery crew
25 stole. The only evidence you are going to hear is from that

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Opening - Mr. De Castro

1 witness they mentioned, Victor Moral, a prolific criminal, a
2 government cooperator with quite a track record, a track record
3 of lying to the government, to courts and to a jury just like
4 you.

5 Mr. Serrano is not guilty of the robbery conspiracy
6 that alleges they robbed drug dealers. He is also not guilty
7 of aiding and abetting the use of guns as part of that robbery
8 conspiracy. As I said, he is not a member, we submit, of the
9 robbery crew, therefore he is not guilty of using guns in
10 furtherance of that.

11 As I said to you earlier, my name is Cesar De Castro,
12 and I along with Valerie Gotlib represent Mr. Serrano. We do
13 not deny the existence of this so-called crew. It's the Javion
14 Camacho crew; they robbed drug dealers. They act as police
15 officers, they act as law enforcement, they even have that
16 police car. It looks like an undercover police car, an
17 unmarked police car. We don't deny that. The question for
18 you, ladies and gentlemen, is who is a member of that robbery
19 conspiracy or that crew charged in the indictment, who
20 participated in those robberies.

21 You are going to hear that some jobs are bigger than
22 other jobs, you need more members for some jobs, you need less
23 members for others. Let me give you an everyday example: I'm
24 going to get my apartment painted in the near future, I don't
25 have a huge apartment, and I think my painter needs two people

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Opening - Mr. De Castro

1 maximum to do the job. But if that painter, he has some
2 employees, were going to do a bigger apartment, maybe a house,
3 commercial space, for example, he would need a bigger crew no
4 doubt. For a job big enough he may need all the painters that
5 he employed; he may need what I call an all-hands-on-deck job.
6 It's a big enough job, bring everybody.

7 In this case you are going to learn -- and I am going
8 to start by talking to you about January 9 -- that January 9
9 was an all-hands-on-deck job. It was an all-hands-on-deck job
10 for the Javion Camacho crew. You are going to hear a lot about
11 that robbery in the days to come. You are also going to hear
12 about the days leading up to that robbery in the next few days.
13 But what you are going to learn is that that was a government
14 sting that ensnared the Camacho crew. It's the biggest part of
15 the government's case. They are going to introduce more than
16 200 pieces of evidence related to that planned robbery. They
17 are going to introduce recordings, videos, text messages,
18 photos. They are probably going to have a table here and put
19 out all the equipment that was brought that Ms. Maimin
20 mentioned.

21 Since this was such a huge job for the Camacho crew,
22 an all-hands-on-deck job, they brought all their members, and
23 they brought all their equipment. In fact, as you heard
24 Ms. Maimin say, Javion Camacho and his crew, his family, who
25 did he bring to that robbery? Julio Camacho. This is the

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Opening - Mr. De Castro

1 biggest job that his crew ever attempted, and in my painting
2 example this would be like my painter doing an entire,
3 all-hands-on-deck, the whole crew would be working to get the
4 job done effectively and efficiently. I suppose that's exactly
5 why the government in this sting operation proposed that it was
6 more than 20 kilos, so that they could ensnare the entire crew.
7 And their plan worked to perfection. He brought the entire
8 crew. It's going to be more than 20 kilos, there is enough to
9 go around.

10 So where was Anthony Serrano? You will be asking
11 yourself this, why he wasn't there if he was supposed to be
12 such an important member of this crew. There is no evidence
13 that he was there. There is no evidence that he even knew what
14 was happening there.

15 The government will not be able to prove to you beyond
16 a reasonable doubt that Mr. Serrano was a member of that crew
17 or even rationally explain his absence on January 9. Sure,
18 they are going to introduce evidence of calls and texts between
19 Mr. Serrano and Javion Camacho, calls and texts between
20 November and January, contact between him and his cousin. It
21 doesn't prove anything.

22 What they can't show you is the substance of any of
23 those communications, but they want you to conclude that those
24 calls are related somehow simply based on the timing. In
25 reality what you are going to see is that there are

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Opening - Mr. De Castro

1 communications in November to January, the holiday season.
2 What they're trying to suggest is his absence is all about his
3 MO, this is his modus operandi, but at the same time then he
4 wasn't operating the way he normally does on October 14, 2012,
5 that robbery that I will talk about in a minute and Ms. Maimin
6 led off with.

7 But I submit to you, ladies and gentlemen, that I have
8 a better explanation for Mr. Serrano's absence. Simply he is
9 not a member of the crew. If you want to know who was a member
10 of the Javion Camacho robbery crew, look no further than
11 January 9, 2013. You are going to hear days of testimony
12 about, you are going to see tons of evidence about that day.
13 That's all you need to look at to figure out who is a member of
14 that crew. The government did a great job. I commend them for
15 setting up the sting operation. They enticed the leader of
16 that crew to show up with his entire team, to gather all of his
17 troops and bring them. And he did. Anthony Serrano is
18 conspicuously absent.

19 Now, October 14, this is the robbery that the
20 government led off with. You are going to hear a lot of
21 evidence, some evidence regarding this robbery. That was a
22 robbery of a drug dealer in Washington Heights, and you are
23 going to hear, as the government said, from some witnesses that
24 will not be able to place Mr. Serrano there, because they will
25 not identify him.

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Opening - Mr. De Castro

1 But what will the government rely on? They will rely
2 on that cell site location evidence, and more importantly they
3 are going to rely on Victor Moral, their star witness.

4 The cell site evidence will show that he was in the
5 area of the robbery, but I suspect the witness also will
6 testify that that cell site address cannot pinpoint the
7 location of a person's phone. It can give you a sort of range,
8 but that cell site evidence cannot prove and it will not prove
9 that he was involved in a robbery in any way.

10 There are plenty of reasons why any one of us would be
11 in Washington Heights on a particular night. There are plenty
12 of great restaurants in Washington Heights, great bars, clubs,
13 everything else. But that's why they're going to call
14 Mr. Moral, because that evidence can't prove to you that he was
15 there committing any type of crime, so they're going to call
16 Victor Moral, and this case will come down to that one man, a
17 violent man who has lied his entire life. He has lied under
18 oath in a courtroom about killing someone.

19 In February 2012 he became an informant for the state
20 police. You are going to learn that while he was an informant
21 he didn't tell them he committed more than 20 robberies,
22 burglaries, car jackings, hijackings, cargo thefts. He didn't
23 tell the state police, as he was required.

24 After his testimony it is going to be very, very clear
25 what his MO is: If he stands to benefit, he will say whatever

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Opening - Mr. De Castro

1 he has to say. He was involved in so many robberies,
2 burglaries, drug deals, car jackings, that he won't even be
3 able to keep them straight, and neither will you. He knows how
4 to manipulate the system. He knows how to manipulate the
5 government. He is going to try to manipulate you, all because
6 he is facing potential life in prison.

7 Mr. Moral will take that stand, and he will testify,
8 and true to form he will lie to you. He will try to manipulate
9 you into believing that Mr. Serrano was involved in these
10 crimes, and he will hope to get yet another pass for the
11 countless crimes for which he is facing the possibility of the
12 rest of his life in prison.

13 Now, the government is also going to put on evidence
14 of other robberies of the Camacho crew that it alleges
15 Mr. Serrano was somehow involved in. And again going through
16 their argument regarding his modus operandi, they are going to
17 also acknowledge that he is not present, that he is somehow
18 this planner who doesn't get his hands dirty in all these
19 robberies. And in this case, ladies and gentlemen, that's the
20 government's way of saying we don't have any direct evidence of
21 his involvement; the only direct evidence we may have is Victor
22 Moral, the man who is trying to avoid a life sentence by
23 implicating Mr. Serrano.

24 You are going to hear evidence, I suspect, of July 4,
25 2012, a robbery of an apartment in Jersey City, for which

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Opening - Mr. De Castro

1 Anthony Serrano was not present; a robbery of a DJ on the
2 Jersey Turnpike on November 22, 2012, for which Anthony Serrano
3 was not present; an October burglary of an apartment in the
4 Bronx, of which Anthony Serrano was not present; and of course
5 the January 9 robbery which you know he was not present.

6 Now, let me say a couple little things before I wrap
7 up about the narcotics conspiracy charged in this case. I
8 submit to you that he is not a member of the robbery crew for
9 all the reasons I have said, he is not guilty of agreeing with
10 those people to sell drugs that they had robbed. There will be
11 no direct evidence of him selling any drugs that the robbery
12 crew stole. The only evidence will be again from Mr. Moral.

13 They will present evidence, as Ms. Maimin referred to,
14 of these drug deals in Jersey City by this older man named
15 Michael Gamba. Gamba sold drugs to government informants.
16 Ms. Maimin said many times in her opening that agent, officers,
17 saw Anthony Serrano sell drugs. Pay attention to that
18 testimony, ladies and gentlemen. Pay attention to the
19 testimony regarding what officers saw. What they're really
20 going to try to do is again show some type of circumstantial
21 evidence that Mr. Serrano made those drug deals and not
22 Mr. Gamba. They are going to ask you to take an actual leap to
23 make a factual inference, and I will suggest to you you will
24 not be able to do that.

25 But even if you were, the government's theory is that

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Opening - Mr. De Castro

1 Mr. Serrano sells the drugs that the robbery crew steals. The
2 drug sales you are going to hear about have nothing to do with
3 the conspiracy charged in the indictment. Those are sales that
4 occurred in New Jersey with a person not even alleged to be
5 part of the robbery crew or anyone involved in the conspiracy
6 at all.

7 Now I'd like to thank you in advance for your service.
8 You play a vital role in the criminal justice system in judging
9 another human being. And you have been chosen to be jurors for
10 pretty much two reasons: One, common sense and your ability to
11 keep an open mind. Mr. Serrano pled not guilty in this case,
12 as you know. He is saying to you he is innocent of these
13 charges. He enjoys a presumption of innocence. What
14 Ms. Maimin said in her opening is not evidence. What I say in
15 this opening is not evidence either. The evidence comes
16 through the witnesses and any documents admitted and anything
17 else admitted into evidence.

18 Your job as jurors is to listen to all the evidence
19 not just from the government's questioning but also from
20 cross-examination. People can say very different things on
21 cross-examination. There are more than one side. There is
22 more than one side to a story. Keep an open mind until you
23 hear all of the evidence and the judge instructs you on the
24 law. If you do that, I am confident that you will reach the
25 only just verdict and that is not guilty. Thank you.

E6F7SER4

Opening - Mr. De Castro

1 THE COURT: Thank you, Mr. De Castro.

2 Would the government like to call its first witness,
3 please?

4 MR. MUKHI: Yes, the government calls Detective Justin
5 Kealy.

6 THE COURT: Let's get the detective to the stand and
7 let let's turn the podium back to facing the witness box.

8 JUSTIN KEALY,

9 called as a witness by the government,
10 having been duly sworn, testified as follows:

11 THE WITNESS: Justin Kealy, K-e-a-l-y.

12 THE COURT: Please be seated. And you can adjust the
13 microphone. It will be important for to you speak into it
14 clearly and loudly. Thank you.

15 You may proceed, Mr. Mukhi.

16 MR. MUKHI: Thank you.

17 DIRECT EXAMINATION

18 BY MR. MUKHI:

19 Q. Mr. Kealy where do you work?

20 A. I Hudson County prosecutor's office in New Jersey.

21 Q. What is your title?

22 A. Detective.

23 Q. How long have you been a detective with the Hudson County
24 prosecutor's office?

25 A. Eight years.

E6F7SER4

Kealy - direct

1 Q. And what did you do before that?

2 A. I worked for a private equity firm in Manhattan and New
3 Jersey.

4 Q. In your current job as detective, what types of cases and
5 investigations do you work on?

6 A. Narcotic investigations.

7 Q. Give the jury a general sense, what type of assignments do
8 you work on on a day-to-day basis?

9 A. Surveillance, background investigations, debriefing
10 informants, debriefing prisoners, search warrants, arrest
11 warrants, buy and bust operations, buy and walk operations,
12 things of that nature.

13 Q. You mentioned that you execute arrest warrants. Do you see
14 anyone in the courtroom that you have arrested?

15 A. Yes, I do.

16 Q. Who do you see?

17 A. Anthony Serrano ran flow.

18 Q. And can you identify him by pointing at him and describing
19 a piece of clothing he is wearing?

20 A. He is sitting at defense counsel with an orange shirt.

21 MR. MUKHI: May the record reflect that the witness
22 has identified the defendant.

23 THE COURT: So reflected.

24 Q. Now, Detective Kealy, does the defendant go by any
25 nicknames that you know of?

E6F7SER4

Kealy - direct

1 A. Yes, Chillini.

2 MR. MUKHI: Your Honor, may I approach?

3 THE COURT: You may.

4 MR. MUKHI: I am now handing the witness what has been
5 premarked for identification as Government Exhibit 4 and
6 Government Exhibit 4A and 4B.

7 Q. Detective Kealy, what is Government Exhibit 4?

8 A. It is a photograph of Anthony Serrano a/k/a Chillini.

9 MR. MUKHI: The government offers Government Exhibit
10 4, which is the photograph, as well as 4A and 4B which are at
11 associated name plates.

12 THE COURT: Any objection?

13 MR. DE CASTRO: No objection.

14 THE COURT: Received.

15 (Government's Exhibits 4, 4A and 4B received in
16 evidence)

17 Q. Now, Detective Kealy, you mentioned that you arrested the
18 defendant Anthony Serrano. When did you arrest him?

19 A. August 1, 2013.

20 Q. And where did you arrest him?

21 A. In the vicinity of 348 Eighth Street in Jersey City, New
22 Jersey.

23 Q. What is the significance of 348 Eighth Street in Jersey
24 City?

25 A. That's where Serrano lives.

E6F7SER4

Kealy - direct

1 Q. And did you arrest him inside his home or outside his home?

2 A. Outside.

3 Q. And what was he doing at the time?

4 A. Walking to his vehicle.

5 Q. What type of vehicle does he have?

6 A. A green Lexus ES.

7 Q. Now, were you by yourself or with other law enforcement?

8 A. I was with other law enforcement.

9 Q. And who were some of the other agents who were there?

10 A. Special Agent Todd Riley of the Drug Enforcement Agency,
11 DEA; special agent Natalie Bara of the Federal Bureau of
12 Investigation, F.B.I; and members of special agent Riley's
13 team.

14 Q. Ms. Craig, can we now put on the screen just for the
15 witness Government's Exhibits 605A and 605B.

16 Detective Kealy, did you recognize the photos on your
17 screen?

18 A. Yes, I do.

19 Q. What are they?

20 A. The photos are on the left-hand side is a photograph of 348
21 Eighth Street, Serrano's house, and on the right is a
22 photograph of the front door for 348 eighth Street.

23 Q. Just for the record, the photograph on the left is 605A and
24 the photograph on the right is 605B?

25 A. Correct.

E6GAASER5

Kealy - Direct

1 BY MR. MUKHI:

2 Q. Do they fairly and accurately depict the defendant's house?

3 A. Yes, it does.

4 MR. MUKHI: All right. Your Honor, the government
5 offers Government Exhibit 605-A and 605-B?

6 MR. DE CASTRO: No objection.

7 THE COURT: Received.

8 (Government's Exhibits 605-A and 605-B received in
9 evidence)

10 MR. MUKHI: Ms. Craig, can we put up 605 briefly.

11 (Pause)

12 Q. And Detective Kealy, what are we seeing here?

13 A. This is a photograph of 348 Eighth Street.

14 Q. And did there come a time that day when you entered this
15 residence?

16 A. Yes.

17 Q. Is it a single-family residence?

18 A. It's a multifamily.

19 MR. MUKHI: If we could go to 605-B.

20 Q. What is this?

21 A. That is the front door of the 348 Eighth Street.

22 Q. Now, you mentioned you went inside the defendant's
23 residence that day. Was that before or after you were
24 arrested?

25 A. After.

E6GAASER5

Kealy - Direct

1 Q. Who, if anyone, else was at his home when you went to the
2 defendant's house?

3 A. Linda Serrano and their young son.

4 Q. Who is Linda Serrano?

5 A. Linda Serrano is Anthony Serrano's wife.

6 Q. How do you know that?

7 A. We have a mutual friend.

8 Q. You have a mutual friend with Linda Serrano or --

9 A. Both.

10 Q. Now, we'll get back to the defendant in a minute. But
11 turning to another topic, you mentioned that one of the
12 assignments you do on a day-to-day basis, something that you
13 called a buy and walk operation. What is that?

14 A. It's called a controlled purchase or a controlled buy.

15 Q. What is a controlled buy?

16 A. It is when an informant gives us information about a drug
17 dealer. It is our obligation to corroborate that information
18 or disprove it so we do an operation where we use the informant
19 to buy drugs from the dealer under our direction and control.

20 Q. What happens to those drugs that are bought from the
21 dealer?

22 A. It is given right to us and then placed into evidence.

23 Q. Now, you mentioned "informant". What is an informant?

24 A. An informant is a person who is looking for help on charges
25 or it's he or she is looking for money. We do our best to keep

E6GAASER5

Kealy - Direct

1 the informant anonymous.

2 Q. And what types of things do informants do for law
3 enforcement?

4 A. They give information and they do operations like, just
5 like controlled buys, controlled purchases.

6 Q. What are the different types of informants at the Hudson
7 County Prosecutors Office?

8 A. Confidential informant is, again, someone who we try to
9 keep anonymous. They have the understanding that we'll try our
10 best not to reveal them. And a confidential source is
11 somebody, same thing, he's looking for help on the charges and
12 he or she is under the understanding that he or she won't be
13 revealed and will testify in court if needed.

14 Q. Now, during a buy operation who, if anyone, is supervising
15 the source or the informant?

16 A. It's usually myself and a supervisor.

17 Q. And how many buy operations, controlled buy operations have
18 you been involved in during the course of your career?

19 A. Seven, 800, something like that.

20 Q. Now, do controlled buys usually follow the same procedures
21 each time?

22 A. We do our best to try to follow the same procedure, yes.

23 Q. So, what generally happens first in a controlled buy
24 operation?

25 A. Based on, so we already talked to the informant. We have

E6GAASER5

Kealy - Direct

1 an understanding of who they're going to purchase drugs from.
2 We'll meet at a location and we'll have the informant place a
3 phone call to the target. We overhear that usually through
4 speakerphone and just so we could verify that he is talking to
5 somebody that we believe is the target and we tell them to
6 set-up the deal. We give them things to say when and where and
7 how much and we basically control the operation from there.

8 Q. Now, you mentioned giving instruction about how much
9 narcotics to buy. How do you determine what that instruction
10 is going to be to the informant?

11 A. Before that operation we'll debrief a CI. We'll find out
12 what's a comfortable level for them to buy. We don't want to
13 ask them to do anything that they're not comfortable with or
14 that will put them at risk.

15 Q. Now, you mentioned that usually the calls that the
16 informants place to the targets are overheard on speakerphone.
17 Are they ever recorded?

18 A. Sometimes they're recorded, yes.

19 Q. When are they recorded and when are they not recorded?

20 A. When we are dealing with the confidential informant we
21 don't order the conversation, again, because we try to keep
22 them anonymous. But when it's a cooperating source we will
23 record the telephone call.

24 Q. When the calls are recorded who provides the recording
25 equipment?

E6GAASER5

Kealy - Direct

1 A. Law enforcement.

2 Q. Now, if the target who's called by the informant who needs
3 to sell the informant or source drugs, what happens next?

4 A. From the time he hangs up I will search the informant and
5 the informant's vehicle to make sure that the informant is not
6 holding any narcotics or weapons or extra money. This is done
7 to prevent from an informant setting up a dealer and saying
8 that he purchased drugs from the dealer when he actually
9 provided it himself and holding more money when he gets to the
10 dealer. Sometimes they will try to purchase more than what we
11 requested.

12 Q. Now, what, if anything, do you give an informant or a
13 source before they go out to try to buy drugs from the target
14 or targets?

15 A. We give them instructions on basically what to do and what
16 not to do. We tell them, you know, just go straight from the
17 meet location to where ever the rally point is, then from there
18 to the target. And don't deviate from that. Don't go into a
19 another residence that we don't know about. Don't go into a
20 store. Usually, and we do our best to do this, we keep the
21 informant under surveillance so we see the informant at all
22 times.

23 Q. And do you give the informant anything before --

24 A. Yes, we give the informant money for the purchase of
25 narcotics.

E6GAASER5

Kealy - Direct

1 Q. And what happens after that?

2 A. After the informant gets the narcotics from the target,
3 again, we meet and he'll hand the narcotics over to me and I'll
4 search the informant and the vehicle to make sure that there
5 is, that's all that there is.

6 Q. And what is law enforcement doing while the informant is
7 trying or is actually buying drugs from the target or targets?

8 A. We're on surveillance. We're trying to see where the
9 target is moving and trying to get a big picture of the
10 operation.

11 Q. And what type of clothes does law enforcement wear during
12 surveillance?

13 A. We wear regular street clothes. We try to blend in.

14 Q. Does law enforcement conduct surveillance by foot or by
15 vehicles?

16 A. Both.

17 Q. And typically how many law enforcement officers are out
18 there conducting surveillance?

19 A. Depending on the operation, anywhere between four to 12.

20 Q. And are the officers in one location or multiple?

21 A. Multiple locations.

22 Q. How are those locations chosen?

23 A. From information from the CI on regular meet spots and
24 intelligence that we've gathered we try to set up surveillance
25 on any and all locations that we know about.

E6GAASER5

Kealy - Direct

1 Q. Now, you mentioned that one of the goals is to always keep
2 track of the informant or the source?

3 A. Yes.

4 Q. Why is that important?

5 A. To make sure that they don't get the drugs from somewhere
6 else and say that they got them from the target.

7 Q. And who else are you trying to observe during surveillance
8 besides the informant or the source?

9 A. Say again.

10 Q. Who else are you trying to observe during surveillance, if
11 anyone, besides the source or informant?

12 A. The person, the target of the investigation.

13 Q. And what types of things are you looking for?

14 A. We're looking to see where they meet to see if they go to
15 another location or we're looking to see if they're meeting
16 their connection or if there are stash spots that are missing,
17 things like that.

18 Q. Now, are law enforcement officers in communication with
19 each other while they're conducting surveillance?

20 A. Yes, we're communicating via handheld radios.

21 Q. What are the officers conducting surveillance communicating
22 about, generally?

23 A. Basically a play-by-play of everything that's going on from
24 start to end.

25 Q. OK. So you may have mentioned this but what happens after

E6GAASER5

Kealy - Direct

1 the transaction take place between the informant and the
2 target?

3 A. Afterwards we'll have the source meet us at a predetermined
4 meet location and we'll -- the source will give us the
5 narcotics. We'll search the source again and the vehicle and
6 then we'll get a debriefing on what exactly happened.

7 Q. Why is another search done after the narcotics is purchased
8 from the target?

9 A. To make sure that the source didn't buy more than what was
10 requested and then holds it for themselves.

11 Q. What happens to the narcotics that the informant turns over
12 to law enforcement after at the meet location?

13 A. When we get back to the office we'll do afield test on it.
14 It's for the presumptive identification of narcotics and then
15 it's stored in our evidence folder in the lab.

16 Q. All right. I now want to direct your attention to
17 December 20, 2012. Were you working that day?

18 A. Yes, I was.

19 Q. And what was your assignment?

20 A. Narcotics Task Force.

21 Q. And what were you doing that day?

22 A. We were doing control of purchase from Michael Gamba and
23 Anthony Serrano.

24 Q. And what was your role in the controlled buy transaction
25 that day?

E6GAASER5

Kealy - Direct

1 A. I was the lead investigator.

2 Q. What does that mean?

3 A. Basically, I controlled the -- I had the most information
4 about what's going on. So I controlled the operation and put
5 people where they need to be.

6 Q. And, approximately, how many other law enforcement officers
7 were you supervising or directing that day?

8 A. I would say eight, around eight.

9 Q. And what time of day was it?

10 A. Afternoon.

11 Q. Now, did this control buy transaction involve a source,
12 informant or both?

13 A. Both.

14 Q. Now, what were you trying to buy, by the way?

15 A. Heroin.

16 Q. And you mentioned that the two targets were Michael Gamba
17 and the defendant. Did you see Michael Gamba that day?

18 A. Yes, I did.

19 Q. And do you see him on other occasions as well during the
20 course of the investigation?

21 A. Yes, I did. Yes, I have.

22 MR. MUKHI: Your Honor, may I approach?

23 THE COURT: You may. May I approach the witness with
24 what's been remarked for identification as Government Exhibits
25 6 and 6A.

E6GAASER5

Kealy - Direct

1 Q. Do you recognize Government Exhibit 6?

2 A. Yes, I do.

3 Q. What is it?

4 A. Photograph of Michael Gamba.

5 MR. MUKHI: Your Honor, the government offers
6 Government Exhibit 6, the photograph and 6A, the associated
7 name plate.

8 MR. DE CASTRO: No objection.

9 THE COURT: Received.

10 (Government's Exhibits 6 and 6A received in evidence)

11 BY MR. MUKHI:

12 Q. Now, Detective Kealy, what happened first that day in the
13 controlled buy operation?

14 A. We met the source and the informant at a meet location and
15 then we had the informant place a phone call to the target,
16 Michael Gamba, and ask him for heroin.

17 Q. Now, was that call recorded?

18 A. No, it was not.

19 Q. Did you overhear the call?

20 A. I did. It was on speakerphone.

21 Q. Before we get to what happened on the call, do you recall
22 the number that the informant called Michael Gamba on?

23 A. No, I do not.

24 Q. Is there something that would refresh your --

25 A. Yes. My report would refresh my memory.

E6GAASER5

Kealy - Direct

1 MR. MUKHI: Your Honor, may I approach with 3516-A?

2 THE COURT: You may.

3 Q. And I am asking for Michael Gamba's number on that day.

4 A. Yes. 516-55-3988.

5 Q. Okay. So what happened next after the informant dialed
6 that number for Michael Gamba?

7 A. Michael Gamba answered, they exchanged greetings,
8 pleasantries and the informant asked to purchase 30 wax paper
9 envelopes of heroin. Gamba replied OK, just give him a few
10 minutes.

11 Q. Now, why -- I'm sorry. You said 30 wax paper envelopes of
12 heroin?

13 A. Yes.

14 Q. And is that a typical way that heroin is packaged?

15 A. Yes. He really asked him for three bundles.

16 Q. What is a bundle?

17 A. One bundle is ten wax paper envelopes full of heroin. So
18 three bundles would be 30.

19 Q. How much heroin is in a one wax paper envelope?

20 THE WITNESS: Weight-wise?

21 THE COURT: Or however you would describe it, weight
22 or size or quantity, is it sort of a one-use package?

23 THE WITNESS: Depending on the quality of heroin, yes,
24 one, anywhere between one to depending on the user, one to
25 five.

E6GAASER5

Kealy - Direct

1 Q. One to five uses?

2 A. Depending on the quality and the person who's using it.

3 Q. Now, are heroin packages labeled in any way based on your
4 training and experience.

5 A. Yes. It's called a stamp.

6 Q. What is the purpose of a stamp?

7 A. A stamp is to identify the dealer. The dealer can put his
8 name on the stamp and give it out to his customers so you have
9 to identify it through something unique or a stamp.

10 Q. So, after the informant spoke to Michael Gamba and Gamba
11 said give him a few minutes, what happened next?

12 A. We waited for a phone call and we got that phone call
13 basically -- oh, excuse me. I searched the source and the
14 informant and I searched the informant's vehicle. Then I
15 provided the -- that was negative. Then I provided the source
16 with \$210 for the purchase of heroin.

17 Q. OK. Now, were you conducting surveillance that day?

18 A. Yes, I was.

19 Q. What was your particular surveillance assignment?

20 A. My assignment was the informant source.

21 Q. And were law enforcement officers conducting surveillance
22 of other locations?

23 A. Yes, they were.

24 Q. And what locations?

25 A. 372 Seventh Street which was in Jersey City which is Mike

E6GAASER5

Kealy - Direct

1 Gamba's resident and 348 Eighth Street in Jersey City which is
2 Serrano's residence.

3 MR. MUKHI: Your Honor, may I approach?

4 THE COURT: You may.

5 MR. MUKHI: I am now handing the witness what's been
6 premarked for identification as 608, 609, 611 and 612, all
7 Government Exhibits.

8 Q. If you could just look through this series of documents and
9 let me know if you recognize them.

10 (Pause)

11 A. Yes, I do recognize them.

12 Q. And what are they?

13 A. It is a map of downtown Jersey City, specifically, it's
14 marked with the addresses of 372 Seventh Street, again, just
15 Gamba's residence; 348 Eighth Street which is Serrano's
16 residence and 410 Monmouth Street which is the Barge Inn.

17 Q. OK. Each one of those documents a map of one or more of
18 those locations?

19 A. Yes, it is.

20 Q. And are you familiar, generally familiar, with those areas?

21 A. Yes, I am.

22 Q. Do they fairly and accurately depict the areas surrounding
23 the locations you described?

24 A. Yes, they do.

25 MR. MUKHI: Your Honor, the government offers

E6GAASER5

Kealy - Direct

1 Government Exhibit 608, 609, 611 and 612.

2 MR. DE CASTRO: No objection.

3 THE COURT: Received.

4 (Government's Exhibits 608, 609 611 and 612 received
5 in evidence)

6 MR. MUKHI: Could we put up 608, please.

7 (Pause)

8 Q. OK. Detective Kealy, you mentioned that agents were
9 conducting surveillance of Michael Gamba's house at 372 Seventh
10 Street. Where is that on this map?

11 A. It is depicted as "A".

12 Q. And you mentioned that agents were also conducting
13 surveillance of the defendant's house that day where this is
14 that on the map?

15 A. It's depicted as "B".

16 Q. How far apart are those two locations, approximately?

17 A. Approximately, two blocks.

18 Q. And if you see on the maps there's arrows pointing from
19 Michael Gamba's house to Anthony Serrano's house, the
20 defendant's house. Is that a walking route or a driving route?

21 A. That is a walking route.

22 Q. Now, were you in communication with other officers
23 conducting surveillance that day?

24 A. Yes. We were communicating via radio.

25 Q. Now, you mentioned that your assignment was to track the

E6GAASER5

Kealy - Direct

1 informant. Did you ever lose track of him that day?

2 A. No, I did not.

3 Q. Now, did there come a time when Michael Gamba called the
4 informant back after that first phone call?

5 A. Yes.

6 Q. And what happened during that phone call?

7 A. He said -- excuse me -- Gamba said that he is good to meet
8 him at his house.

9 Q. And, approximately, how long before the -- Sorry. How long
10 after from when the informant called Gamba requesting heroin
11 did it take for Gamba to call the informant back?

12 A. I'd say around 10 or 15 minutes.

13 Q. And were there other law enforcement officers conducting
14 surveillance of where Gamba went in that ten or 15 minutes?

15 A. Yes, there were.

16 Q. Now, did you review who else Michael Gamba was in contact
17 with that day by phone?

18 A. Yes, I did.

19 MR. MUKHI: Your Honor, may I approach again?

20 THE COURT: You may.

21 MR. MUKHI: I am now approaching the witness with
22 what's been marked for identification as Government Exhibit
23 502-A and Government Exhibit 411.

24 Q. Do you recognize 502-A?

25 A. Yes, I do.

E6GAASER5

Kealy - Direct

1 Q. What is it?

2 A. It is toll records or phone records between Anthony Serrano
3 and Michael Gamba.

4 Q. OK. And did you verify what's on 502-A?

5 A. Yes, I did.

6 Q. What did you verify it against?

7 A. The actual, the disk of the phone records.

8 Q. OK. And I am now showing you what's been premarked for
9 identification as Government Exhibit 411. Do you recognize
10 that?

11 A. Yes, I do.

12 Q. What is it?

13 A. It is a CD of phone records between Serrano and Gamba.

14 Q. Okay. And does it include other records as well besides
15 those?

16 A. Yes, it does. Cell site records as well as and dates.

17 Q. How do you recognize that as the same CD that you used to
18 prepare and verify 502-A?

19 A. That is my initials that you wrote on the disk.

20 MR. MUKHI: Your Honor, at this time the government
21 offers Government Exhibits 502-A, and 411 subject to
22 connection.

23 MR. DE CASTRO: No objection.

24 THE COURT: Received.

25 MR. MUKHI: Can we put up 502-A, page one.

E6GAASER5

Kealy - Direct

1 (Pause)

2 Q. What is this page of 502-A show?

3 A. This is phone conversations between Anthony Serrano and
4 Michael Gamba between the dates of September 12, 2012 and
5 January 2, 2013.

6 Q. And how many total communications were there during that
7 period?

8 A. 261 communications.

9 MR. MUKHI: If we could go to the next page.

10 (Pause)

11 Q. What does this page show?

12 A. This is phone conversations between Anthony Serrano and
13 Michael Gamba on December 20, 2012.

14 Q. Was that the same day of the controlled buy operation?

15 A. Yes, it was.

16 Q. And what did that show? What does this page show?

17 A. Nine total communications between Serrano and Gamba.

18 Q. And how many of those are during the afternoon?

19 A. Five.

20 Q. Now, what happened next after Gamba called the informant
21 back?

22 A. I followed the source and the informant to Gamba's house,
23 372 Seventh Street and Gamba already went -- they met outside I
24 believe and they went into the apartment.

25 Q. And were you following on foot or by car?

E6GAASER5

Kealy - Direct

1 A. By car.

2 Q. And what happened next after the informant and source
3 arrived at Gamba's house?

4 A. They were inside for a short time and then the source and
5 the informant left Gamba's house, got into the informant's
6 vehicle and they went to the predetermined meet location.

7 Q. And what happened next?

8 A. The source handed me 30 wax paper envelopes with the stamp
9 "Fat Lady" of heroin. I searched the source, the informant and
10 the informant's vehicle with negative results and they gave me
11 a description on what happened.

12 MR. MUKHI: Your Honor, may I approach again?

13 THE COURT: You may. For planning purposes we will be
14 taking our afternoon break in about five to seven minutes in
15 that range.

16 Q. Now, before I hand you this, Detective Kealy, you said the
17 search of the informants resulted in negative results. What
18 did you mean by that?

19 A. That they didn't have any money or drugs on them or weapons
20 for that matter.

21 Q. OK. All right. I've now handed you what's been premarked
22 for identification as Government Exhibit 190. Do you recognize
23 this?

24 A. Yes, I do.

25 Q. And what is it?

E6GAASER5

Kealy - Direct

1 A. It is 30 wax paper envelopes containing heroin with the
2 stamp "Fat Lady" on it from the purchase on December 20, 2012.

3 Q. OK. And how do you recognize Government Exhibit 190 as the
4 same heroin that was given to you by the informant on
5 December 20, 2012?

6 A. That is the label I made with my signature on it.

7 MR. MUKHI: Your Honor, at this time the government
8 offers Government Exhibit 190 into evidence.

9 MR. DE CASTRO: No objection.

10 THE COURT: Received.

11 (Government's Exhibit 190 received in evidence)

12 Q. OK. And you mentioned that there was a stamp on the
13 heroin, a stamp "Fat Lady". Do you see the stamp in Government
14 Exhibit 190?

15 A. Yes, I do.

16 Q. Where is it?

17 A. The stamp is right on the envelope.

18 Q. And there is a one envelope in there that's labeled "test",
19 do you see that?

20 A. Yes, I do.

21 Q. And what does that signify?

22 A. That was my field test for the presumptive identification
23 for heroin which was positive.

24 MR. MUKHI: Your Honor, I am now going to read a
25 stipulation and then publish 190 to the jury and then I think

E6GAASER5

Kealy - Direct

1 it would be a good time for a break.

2 THE COURT: All right. Let me just tell the ladies
3 and gentlemen of the jury what a stipulation is. You may have
4 heard me mention during some of the preliminary instructions
5 that evidence comes in primarily in the form of testimony of
6 witnesses, documentary and other physical evidence but it also
7 comes in by way of what's called a stipulation.

8 A stipulation is an agreement between the government
9 and the defendant through his counsel as to certain facts and
10 you should take those facts as established. They are not
11 contested.

12 You may proceed, Mr. Mukhi.

13 MR. MUKHI: Yes, your Honor.

14 The parties have agreed that Government Exhibit 190
15 consists of 30 envelopes containing a total of, approximately,
16 .45 grams of heroin.

17 Government Exhibit 191 consists of 30 envelopes
18 containing a total of, approximately, .525 grams of heroin.

19 Government Exhibit 192 consists of 30 envelopes
20 containing a total of, approximately, .375 gram as heroin.

21 Government Exhibit 193 consists of 50 envelopes
22 containing, approximately, .5 grams of heroin.

23 This stipulation and Government Exhibits 190, 191, 192
24 and 193 may be received into evidence as government exhibits at
25 trial. 190 is already in evidence. And at this time the

E6GAASER5

Kealy - Direct

1 government offers Government Exhibit 191, 192, 193 and 805
2 which is the stipulation.

3 THE COURT: All right. By stipulation those are
4 received.

5 (Government's Exhibits 191, 192, 193 and 805 received
6 in evidence)

7 MR. MUKHI: Your Honor, may I have permission to
8 public Government Exhibit 190 to the jury by walking it by?

9 THE COURT: You may.

10 (Pause)

11 MR. MUKHI: Your Honor, now would be a good time for a
12 break.

13 THE COURT: All right. Ladies and gentlemen, we're
14 going to take our midafternoon break. I think I forgot to tell
15 you that you'll get a break both in the morning and then one in
16 the afternoon, more if we need more breaks. But those are the
17 regular and I try to do them at about this time in the
18 afternoon, there or thereabouts depends on where we are in
19 testimony, things of that nature. So, we'll take a short break
20 about ten minutes, time to stretch your legs. And then we'll
21 come on back and we'll continue.

22 So, Joe will explain to you sort of the procedure
23 which is just all come back to the room. You all get back in
24 the room and are ready, we'll bring you back out here in about
25 ten minutes, all right.

E6GAASER5

Kealy - Direct

1 I want to remind you not to talk to each other or
2 anybody else about the case.

3 (Jury not present)

4 THE COURT: All right. You can step down, detective,
5 and be back in about ten minutes.

6 Counsel, is there anything that we should go over
7 before we take our own break?

8 All right. We'll take our break and be back in ten
9 minutes.

10 (Recess)

11 THE COURT: Let's all be seated and bring out the
12 jury.

13 (Jury present)

14 THE COURT: All right. Ladies and gentlemen, let's
15 all be seated.

16 Mr. Mukhi, you may proceed, sir. Wait. We're missing
17 Alternate Number One.

18 (Pause)

19 (All jurors present)

20 THE COURT: All right. Now, Mr. Mukhi, you may
21 proceed, sir.

22 MR. MUKHI: Thank you, your Honor.

23 Q. Detective Kealy, turning your attention now to December 27,
24 2012, seven days later, were you working that day?

25 A. Yes, I was.

E6GAASER5

Kealy - Direct

1 Q. And what was your assignment that day?

2 A. Narcotics Task Force.

3 Q. What were you doing in particular?

4 A. Controlled purchase from Michael Gamba and Anthony Serrano.

5 Q. And what type of purchase?

6 A. Heroin.

7 Q. What happened first on that day in the buy operation?

8 A. I met the informant at a meeting location in Jersey City.

9 Then we placed a phone call to Michael Gamba.

10 Q. And what instructions, if any, did you give to the
11 informant about what to say during this phone call?

12 A. Number one, asked if he purchased heroin and number two,
13 the price, number three, location.

14 Q. And was this phone call recorded?

15 A. It was not.

16 Q. Did you listen to the call?

17 A. I did. It was on speakerphone.

18 Q. By the way, what time of day was this, approximately?

19 A. Afternoon.

20 Q. Now, what happened during the phone call?

21 A. Again, they exchanged greetings and they, Gamba said give
22 him a few minutes.

23 Q. And what happened next?

24 A. The informant picked up -- excuse me. I searched the
25 informant and the vehicle with negative results and I gave the

E6GAASER5

Kealy - Direct

1 informant \$210 for the purchase of heroin.

2 Q. By the way, how much heroin was being purchased on this
3 occasion?

4 A. Three bundles, 30 wax paper envelopes.

5 Q. And what happened next?

6 A. The informant drove to Gamba's house, 372 Seventh Street
7 and Gamba got out of his house and into the informant's
8 vehicle, then they drove to 248 Eighth Street, Serrano's
9 residence.

10 Q. Now, were you personally conducting a surveillance of this?

11 A. Yes, I was conducting surveillance of the informant and at
12 this point the informant and Gamba.

13 Q. And how were you conducting surveillance?

14 A. In my vehicle.

15 Q. Now, what happened next?

16 A. They arrived at 348 Eighth Street. They pulled over and
17 parked. Gamba got out of the vehicle and he was outside
18 Serrano's residence. A short time later Serrano opened the
19 door for Gamba, let him inside and I'd say just a couple
20 seconds later Gamba exited from Serrano's residence and back
21 into the informant's vehicle. Then the informant drove Gamba
22 to Gamba's residence, 372 Seventh Street.

23 Q. Now, was your role, again, to keep track of the informant
24 that day?

25 A. Yes.

E6GAASER5

Kealy - Direct

1 Q. And did you ever lose track of him?

2 A. No, I did not.

3 MR. MUKHI: Now, if we could pull up Government
4 Exhibit 611 which is already in evidence.

5 (Pause)

6 Q. Now, Detective Kealy, there's a laser pointer in front of
7 you now.

8 A. OK.

9 Q. If you could just show with the laser pointer on the map
10 611, what you just described, what you observed that day.

11 A. The informant picked up Gamba at this location, 372 Seventh
12 Street. They went eastbound on Seventh Street. They went
13 northbound on Monmouth Street, then they went westbound on
14 Eighth Street to 348 Eighth Street.

15 MR. MUKHI: If we could pull up 605-A.

16 (Pause)

17 Q. So, what did you observe once the informant and Gamba
18 arrived at 348 Eighth Street, the defendant's residence?

19 A. Serrano opened the door for Gamba. He was kind of in the
20 doorway and a little bit outside and they walked in together
21 and Gamba reappeared, basically, exited the apartment.

22 Q. And where was the informant after the defendant let Gamba
23 into the house?

24 A. The informant was in the vehicle waiting for Gamba.

25 Q. What happened next once Gamba exited?

E6GAASER5

Kealy - Direct

1 A. Gamba got into the informant's vehicle and they drove back
2 to the Gamba's house, 372 Seventh Street and Gamba got out and
3 went to his apartment and the informant went to the
4 predetermined meet location.

5 Q. And did you go to the meet location as well?

6 A. Yes, I did.

7 Q. And what happened at the meet occasion?

8 A. The informant handed me 30 wax paper envelopes with the
9 stamp "Fat Lady" on it and I searched the informant's vehicle
10 with negative results and the informant gave me a description
11 on what happened.

12 MR. MUKHI: Your Honor, I am now going to approach
13 with Government Exhibit 191 --

14 THE COURT: All right.

15 MR. MUKHI: -- which is Government Exhibit -- which
16 has already been admitted into evidence.

17 Q. Now, Detective Kealy, do you recognize Government Exhibit
18 191?

19 A. Yes, I do.

20 Q. What is it?

21 A. It is the heroin purchased on December 27, 2012 from
22 Michael Gamba an Anthony Serrano.

23 Q. How do you recognize it as that same heroin?

24 A. That's my label and my initials on the bag and inside.

25 Q. And you mentioned that there was a stamp. Where is the

E6GAASER5

Kealy - Direct

1 stamp?

2 A. The stamp on the outside of the envelope.

3 Q. And is that the same stamp or a different stamp that was on
4 the heroin in Government Exhibit 190 from December 20, 2012?

5 A. The same stamp.

6 MR. MUKHI: Your Honor, may I briefly publish to the
7 jury by walking it by?

8 THE COURT: Yes, you may.

9 (Pause)

10 Q. Now, Agent Kealy, you mentioned that after the informant
11 and Gamba arrived at the defendant's house, the defendant let
12 in Gamba and they were in there very briefly. Approximately,
13 how long?

14 A. I'd say seconds, 30 seconds, less than a minute.

15 MR. MUKHI: All right. Now, if we could pull up the
16 third page of 502-A.

17 (Pause)

18 Q. Now, what does this page of 502-A show?

19 A. This is phone conversations between Anthony Serrano and
20 Michael Gamba on December 27, 2012.

21 Q. And how many were there?

22 A. There were two.

23 Q. And what time, approximately?

24 A. A little after three p.m. and 3:30, around 3:30.

25 Q. I now want to turn your attention to January 4, 2013. Were

E6GAASER5

Kealy - Direct

1 you working that day?

2 A. Yes, sir, I was.

3 Q. And what was your assignment?

4 A. Narcotics Task Force.

5 Q. And what were you doing?

6 A. Controlled purchase from Michael Gamba and Anthony Serrano.

7 Q. Now, did this buy involve both a source and an informant or
8 just one?

9 A. Just the source.

10 Q. And what were you trying to buy that day?

11 A. Heroin.

12 Q. What happened first during this buy operation?

13 A. We placed a phone call to Michael Gamba -- excuse me -- the
14 source placed a phone call to Michael Gamba.

15 Q. And was that call recorded?

16 A. Yes, it was.

17 MR. MUKHI: And I am now going to hand you what's been
18 premarked for identification as Government Exhibit 304 and
19 304-T if I might, your Honor?

20 THE COURT: Yes.

21 Q. What are 304 and 304-T?

22 A. 304 is a disk of the consensually recorded phone
23 conversations of between the source and Michael Gamba. And
24 304-T is the transcript of that proceeding.

25 Q. And is this the same call that took place on January 4?

E6GAASER5

Kealy - Direct

1 A. Yes, it is.

2 Q. And how do you recognize, starting with 304 how do you
3 recognize that as a disk of the call from January 4?

4 A. Those are my initials and I dated it.

5 Q. And you mentioned that 304-T is a transcript. Does the
6 transcript accurately reflect what takes place on the January 4
7 call between the source and Michael Gamba?

8 A. Yes, it does.

9 Q. And are you familiar with both of their voices, the source
10 and Michael Gamba?

11 A. Yes, I was.

12 Q. And do the voice attributions on the transcript accurately
13 reflect who is speaking when?

14 A. Yes.

15 MR. MUKHI: Your Honor, the government offers
16 Government Exhibit 304 into evidence and 304-T as an aid to the
17 jury.

18 THE COURT: Mr. de Castro.

19 MR. DE CASTRO: No objection.

20 THE COURT: All right. Those are received as stated.

21 (Government's Exhibits 304 and 304-T received in
22 evidence)

23 THE COURT: And are you going to play that audio now?

24 MR. MUKHI: Yes, your Honor, and I would ask that the
25 jurors turn to 304-T in their jury binders.

E6GAASER5

Kealy - Direct

1 THE COURT: All right. So, ladies and gentlemen, now
2 you can pull up the jury binders which are under your care and
3 let me give you a couple of instructions.

4 First, just turn to the transcript that we point you
5 to because certain of them haven't been offered yet and so
6 we'll point you and walk you through the binder. But the one
7 we're going to look at right now is 304-T. Now, we're also
8 going to hear the recording. The recording is what is received
9 in evidence. The recording is the evidence. If there is a
10 difference between the recording and what you see on the
11 transcript, it's what you hear and what you read on the
12 transcript. It's what you hear that controls. So, in other
13 words, if you think that a word is, you hear it as one word and
14 it's written down in the transcript as another, it's what you
15 hear that controls. The transcript is just an aid to assist
16 you to follow along.

17 All right. You may proceed, Mr. Mukhi.

18 MR. MUKHI: Yes, your Honor, before we get to the
19 call.

20 Q. Do you recall what instructions you gave to the source
21 before he placed the call to Michael Gamba?

22 A. Yes. I told the source to ask Gamba, number one, for
23 heroin; number two, to get a price and number three, for a
24 location.

25 MR. MUKHI: All right. Can we listen to the call now,

E6GAASER5

Kealy - Direct

1 Ms. Craig.

2 (Audio Recording Playing)

3 Q. Now, Detective Kealy, we heard someone identify themselves
4 as "Adam". Who is Adam?

5 A. Adam is the source.

6 Q. Someone responded to the name "Michael". Who is Michael?

7 A. Mike is Mike Gamba.

8 Q. Who is Billy?

9 A. Billy is the informant.

10 Q. Now, what, if anything, did you give to the informant and
11 source after that this?

12 A. Say again.

13 Q. What, if anything, did you give to the informant or the
14 source after this phone call?

15 A. I gave the source \$210 for the purchase of heroin.

16 Q. Now, what searches, if any, were done of the source in
17 the --

18 A. I searched the source, the source's person and the vehicle.

19 Q. And what were the results?

20 A. Negative.

21 Q. Now, were other law enforcement officers including yourself
22 conducting surveillance that day?

23 A. Yes, they were.

24 Q. And what locations?

25 A. 372 Seventh Street in Jersey City, Gambas residence; 372

E6GAASER5

Kealy - Direct

1 Eighth Street Serrano's residence and 410 Monmouth Street, the
2 Barge Inn in Jersey City.

3 Q. What was your particular surveillance?

4 A. I was assigned to the source.

5 Q. And now, what instructions did you give to the source and
6 the informant after you handed over the \$210?

7 A. I instructed the source to just not deviate from the plan
8 and meet me at the meet location when it was over.

9 Q. OK. What happened next?

10 A. The -- after I searched him?

11 Q. Yes.

12 A. We waited for a phone call from Gamba to let us know he was
13 good. Excuse me. That he was positive for heroin.

14 Q. And how long did you wait?

15 A. We waited about 15 minutes.

16 Q. And what happened after 15 minutes?

17 A. We -- I followed the source to Gamba's residence at 372
18 Seventh Street. The source got out of the vehicle and met
19 Gamba outside. They had a handshake. They just had smalltalk
20 and Gamba went into his residence and the source met me at the
21 meet location.

22 Q. OK. And after -- before you followed the informant and the
23 source to Michael Gamba's house, was there any phone call that
24 took place?

25 A. Yes, there was.

E6GAASER5

Kealy - Direct

1 Q. OK. What was that phone call?

2 A. Phone call was just "I am good".

3 Q. Who said that they were good?

4 A. Gamba.

5 Q. OK. So what happened next after you followed the source
6 and informant to Michael Gamba's house?

7 A. This is just the source.

8 Q. I'm sorry. Just the source?

9 A. Right. I followed the source from Gamba's house to the
10 meet location. The source handed me the 30 wax paper envelopes
11 this time with the stamp "Harlem Nights" and I searched the
12 source's vehicle and person for drugs, contraband, money, found
13 negative results.

14 Q. And what else happened next?

15 A. I -- when I went back to my office I field tested the
16 heroin which tested positive for the presumptive identification
17 of heroin and entered into evidence into the laboratory.

18 Q. And by the way, before we get to that, for Government
19 Exhibit 191 the heroin from December 27, did you also take that
20 back to your office for the field testing?

21 A. Yes, I did.

22 MR. MUKHI: Your Honor, may I approach?

23 THE COURT: You may.

24 Q. I'm now handing the witness what's been introduced evidence
25 as Government Exhibit 192. Do you recognize Government Exhibit

E6GAASER5

Kealy - Direct

1 192?

2 A. Yes, I do.

3 Q. And what is it?

4 A. It's from the controlled purchase from the source to
5 Michael Gamba and Anthony Serrano on January 4, 2013.

6 Q. OK. And how do you recognize it as the same heroin?

7 A. That is the label I put on, with my signature both outside
8 and inside.

9 Q. OK. And is there a stamp on this heroin?

10 A. Yes.

11 Q. What is the stamp?

12 A. "Harlem Nights".

13 MR. MUKHI: Your Honor, may I publish 192 to the jury?

14 THE COURT: You may.

15 (Pause)

16 Q. OK. Finally, turning your attention to January 16, 2013,
17 were you working that day?

18 A. Yes, I was.

19 Q. What was your assignment?

20 A. The Narcotics Task Force.

21 Q. And what were you doing in particular?

22 A. Controlled purchase from Michael Gamba and Anthony Serrano.

23 Q. What was being purchased?

24 A. Heroin.

25 Q. What happened first on this day?

E6GAASER5

Kealy - Direct

1 A. We placed -- excuse me -- the source placed a phone call to
2 Michael Gamba.

3 Q. And was this call recorded?

4 A. Yes, it was.

5 MR. MUKHI: Your Honor, may I approach?

6 THE COURT: You may.

7 MR. MUKHI: I am handing the witness what's been
8 premarked for identification as Government Exhibit 305 and
9 305-T.

10 Q. Do you recognize Government Exhibit 305?

11 A. Yes, I do.

12 Q. What is it?

13 A. It is a CD of a recorded phone conversation between the
14 source and Michael Gamba on January 16.

15 Q. How do you recognize it as that same recording?

16 A. That's my initials and the date I received it.

17 Q. The transcript, does that accurately reflect what took place
18 on the January 16 call?

19 A. Yes, it does.

20 Q. And, again, who are the individuals on that call?

21 A. It's Michael Gamba and the confidential source.

22 Q. OK. And did the voice attributions on the transcript
23 accurately reflect who you are speaking with?

24 A. Yes.

25 (Continued on next page)

E6gdser6

Kealy - direct

1 MR. MUKHI: Your Honor, the government offers
2 Government Exhibit 305 into evidence as well as 305T as an aid
3 to the jury.

4 MR. DE CASTRO: No objection.

5 THE COURT: All right. Received as stated.

6 (Government's Exhibits 305, 305T received in evidence)

7 BY MR. MUKHI:

8 Q. Now, Detective Kealy, before we get to the call, do you
9 recall what your instructions were to the source on that day
10 before this call to Michael Gamba?

11 A. Yes. To ask for heroin, to find out how much, and a
12 location.

13 Q. How much heroin this time?

14 A. This time it was a brick. A brick is a street term for 50
15 wax paper envelopes of heroin.

16 Q. OK. And I'd ask the jurors if they could turn to 305T in
17 their binders and to follow along with the audio.

18 (Audio played)

19 MR. MUKHI: OK.

20 Q. Detective Kealy, what, if anything, did you give to the
21 source or informant after this phone call?

22 A. I gave the source \$300 for the purchase of heroin.

23 Q. Why did you give him \$300?

24 A. To purchase the brick of heroin.

25 Q. And why \$300 in particular?

E6gdser6

Kealy - direct

1 A. Because that's how much it costs.

2 Q. And was there something on the phone call that made you
3 think the cost was \$300?

4 A. Yes.

5 Q. OK. Now, what did you do next?

6 A. I searched the informant and the source and the informant's
7 vehicle, with negative results.

8 Q. And were law enforcement officers conducting surveillance
9 that day?

10 A. Yes, they were.

11 Q. And at what locations?

12 A. 372 7th Street, Gamba's residence; 348 8th Street,
13 Serrano's residence; and 410 Monmouth Street, the Barge Inn.

14 Q. And, now, what was your particular surveillance assignment?

15 A. The source and the informant.

16 Q. And, now, what instructions did you give to the source and
17 the informant after you gave the source the \$300?

18 A. This time it was to pick up the target Michael Gamba and
19 hopefully go to pick up the drugs.

20 Q. What happened next?

21 A. We got to Gamba's house. The source and the informant, in
22 the informant's vehicle, picked up Michael Gamba, and then I
23 went to the Barge Inn on 410 Monmouth Street.

24 Q. What is the Barge Inn?

25 A. The Barge Inn is a bar/restaurant.

E6gdser6

Kealy - direct

1 Q. What happened -- by the way, were you following in a car or
2 by foot?

3 A. Car.

4 Q. What happened next once they arrived at the Barge Inn?

5 A. They were there awhile. They were there approximately an
6 hour. After about an hour I saw the informant, the source and
7 Gamba exit from the Barge Inn and enter the informant's
8 vehicle, and then I followed them to 8th Street.

9 Q. And how were you following them?

10 A. In my vehicle.

11 Q. And what happened on 8th Street?

12 A. I saw Gamba come out of 8th Street and enter the vehicle,
13 and then they went back to Gamba's residence, 372 7th Street.

14 Q. And when you are referring to 8th Street, are you referring
15 to a particular address on 8th Street?

16 A. 348 8th Street.

17 Q. Now, what happened next?

18 A. They dropped off Gamba at his residence. He went inside.
19 And then we went to the predetermined meet location.

20 MR. MUKHI: If we could put up 612, which is another
21 map that's already been introduced into evidence.

22 Q. And Detective Kealy, if you could just use the laser
23 pointer again to show the jurors what you saw that day on this
24 map.

25 A. Yes. We picked up Mike Gamba here. We went eastbound on

E6gdser6

Kealy - direct

1 7th. We went southbound on Brunswick to Newark Avenue to 3rd
2 Street, and then we pulled -- they pulled over and parked on
3 410 Monmouth Street.

4 When they were in the bar, I was here somewhere. And
5 they got back in the vehicle and drove to 348 8th Street, which
6 is right there.

7 Q. Now, you mentioned your assignment on this day, as well,
8 was to track the informant and the source. Did you ever lose
9 track of them that day?

10 A. Yes, I did.

11 Q. And when was that?

12 A. When they entered the Barge Inn.

13 Q. Why didn't you go inside the Barge Inn?

14 A. I didn't want to expose myself, that this was a controlled
15 purchase under my direction, so I didn't want to blow the
16 operation.

17 Q. So other than that period that the informant and the source
18 are inside the Barge Inn with Michael Gamba, did you ever lose
19 track of the informant or source that day?

20 A. No. Besides them being in the bar, no.

21 Q. Now, what happened at the meet location?

22 A. The source handed me 50 wax paper envelopes with the stamp
23 Fat Lady. I searched both the source, the informant and the
24 informant's vehicle, with negative results, and they gave me a
25 play-by-play of what happened.

E6gdser6

Kealy - direct

1 MR. MUKHI: All right. Your Honor, I am going to
2 approach with what has been admitted into evidence as
3 Government Exhibit 193.

4 THE COURT: All right.

5 Q. Do you recognize Government Exhibit 193?

6 A. Yes, I do.

7 Q. And what is it?

8 A. It is 50 wax paper envelopes, a controlled purchase on
9 January 16th, 2013, from Michael Gamba and Anthony Serrano. It
10 is stamped Fat Lady.

11 Q. How do you know that is the same heroin from January 16,
12 2013?

13 A. It's the same stamp, Fat Lady, on the same -- spelled the
14 same way.

15 Q. Is there anything else on 193 that indicates it is the one
16 from January 16th in particular?

17 A. Yes. It has my label and my signature on both the outside
18 and the inside of the bag.

19 Q. Now, you mentioned this one has the Fat Lady stamp, and
20 then the last one you saw the stamp Harlem Nights.

21 How many -- of the four controlled buys we have been
22 talking about, how many were Fat Lady and how many were Harlem
23 Nights?

24 A. Three were Fat Lady. One was Harlem Nights.

25 MR. MUKHI: Your Honor, may I publish 193?

E6gdser6

Kealy - direct

1 THE COURT: You may.

2 (Publishing to the jury)

3 BY MR. MUKHI:

4 Q. All right. Just one more question, Detective Kealy.

5 8th Street, the street that the defendant's house is
6 on --

7 A. Yes.

8 Q. -- is it a one-way street or a two-way street?

9 A. It is a one-way street.

10 Q. If you see, at the end of the upper left-hand corner of the
11 map we are looking at right now, there is a green area --

12 A. Yes.

13 Q. -- down the street from the defendant's house.

14 A. Yes.

15 Q. What is that?

16 A. That is called the Oaks Park. I don't know the proper name
17 of it. That's what people from Jersey call it. It has a
18 little league field, a Babe Ruth field, a basketball court, a
19 hockey rink, playground, I believe, things of that nature.

20 MR. MUKHI: One moment, your Honor.

21 THE COURT: All right.

22 (Pause)

23 MR. MUKHI: No further questions at this time, your
24 Honor.

25 THE COURT: All right. Thank you.

E6gdser6

Kealy - direct

1 Mr. De Castro.

2 CROSS-EXAMINATION

3 BY MR. DE CASTRO:

4 Q. Good afternoon, Detective.

5 A. Good afternoon. How are you?

6 Q. Good. My name is Cesar De Castro. I represent

7 Mr. Serrano. I have a few brief questions for you.

8 You knew who -- you knew Mike Gamba from the
9 neighborhood, right?

10 A. Yes.

11 Q. From growing up you knew who he was, right?

12 A. Not growing up, no.

13 Q. When you became more of an adult?

14 A. No. I didn't know him at all until we got information from
15 the informant that he was involved in selling narcotics.

16 Q. You did see him around but didn't know his name?

17 A. I probably did see him around, yes.

18 Q. And he is somewhat of a staple on that block, isn't he?

19 A. How do you mean?

20 Q. He is sitting out on the stoop a lot and out and about in
21 that neighborhood?

22 A. Yes. He is physical, yes.

23 Q. That neighborhood is a very sort of like close-knit
24 community?

25 A. Yes.

E6gdser6

Kealy - cross

1 Q. Row houses, tree-lined streets?

2 A. Yes.

3 Q. Like you said, that park, that is just down the block?

4 A. Right. Yes.

5 Q. Many of the families have been living there for many, many
6 years, right?

7 A. Yes.

8 Q. Like Linda Serrano's family, they have been living there
9 for years, right?

10 A. Yes.

11 Q. And just directing your attention back to December 20th of
12 2012.

13 That was when your confidential informant called
14 Mr. Gamba, right?

15 A. Yes.

16 Q. And -- but he didn't call Mr. Serrano, correct?

17 A. No, he did not.

18 Q. In fact, through all of these operations he never called
19 Mr. Serrano, right?

20 A. No.

21 Q. And on that particular occasion Mr. Gamba exited his house
22 or apartment, right?

23 A. Yes.

24 Q. And Mr. Gamba and the informant spoke, right?

25 A. Yes.

E6gdser6

Kealy - cross

1 Q. What was Mr. Gamba wearing that day?

2 A. I don't recall what he was wearing.

3 Q. It was December, right?

4 A. Correct.

5 Q. So I assume he had appropriate clothing for the weather?

6 A. Yes.

7 Q. He wasn't wearing shorts, for example?

8 A. No.

9 Q. He probably had a jacket on as well, right?

10 A. Probably, yes.

11 Q. Long pants, perhaps, with pockets?

12 A. Yes.

13 Q. And probably his jacket had pockets, too, right?

14 A. Yes.

15 Q. You have no idea what was in any of his pockets, right?

16 A. No, I do not.

17 Q. You couldn't observe that from where you were, right?

18 A. No.

19 Q. How far away were you by -- sorry, how far away were you?

20 A. In what part?

21 Q. How about when you first observed Mr. Gamba on

22 December 20th.

23 A. I was half a block away.

24 Q. And you have no reason to believe Mr. Gamba knows who you
25 are, right?

E6gdser6

Kealy - cross

1 A. No.

2 Q. So you can pretty much -- you can be kind of close, right?

3 A. Yes.

4 Q. I think -- I'm sorry. Just one moment, your Honor.

5 (Pause)

6 Now, let me just direct your attention to
7 December 27th, that next week.

8 A. Yes.

9 Q. That, again, the confidential informant called Mr. Gamba,
10 right?

11 A. Yes.

12 Q. And did not call Mr. Serrano, correct?

13 A. Correct.

14 Q. And he exited his apartment again and spoke to the
15 informant, right?

16 A. Yes.

17 Q. And do you remember what he was wearing on that day?

18 A. No, I do not.

19 Q. Again, December 2012, so probably something weather
20 appropriate, right?

21 A. Yes.

22 Q. Perhaps layers, correct?

23 A. Yes.

24 Q. And this was the particular occasion that you observed
25 Mr. Serrano, correct?

E6gdser6

Kealy - cross

1 A. Yes.

2 Q. And you observed him outside of his location at 348, right?

3 A. Not outside; inside. He came from the inside to like the
4 vestibule area outside and then back in.

5 Q. Do you remember what he was wearing?

6 A. No, I do not.

7 Q. And you testified that you saw interaction between
8 Mr. Gamba and Mr. Serrano, correct?

9 A. Yes.

10 Q. They spoke?

11 A. I assume so. I don't know.

12 Q. You didn't see it?

13 A. I did not see it.

14 Q. You couldn't see if they were speaking, right?

15 A. No. He just let him into the house and Gamba followed
16 Mr. Serrano.

17 Q. And did you observe -- you didn't observe Mr. Serrano give
18 anything to Mr. Gamba, right?

19 A. Say that again.

20 Q. You didn't observe Mr. Serrano give anything to Mr. Gamba?

21 A. No, I did not.

22 Q. You did not, likewise, observe Mr. Gamba give anything to
23 Mr. Serrano, correct?

24 A. Right. I did not.

25 Q. You did not observe Mr. Gamba with a package?

E6gdser6

Kealy - cross

1 A. No, I did not.

2 Q. You did not observe Mr. Serrano with a package?

3 A. No, I did not.

4 Q. You couldn't see if they exchanged anything, correct?

5 A. Correct. They were inside the house.

6 Q. Right. You don't even know if they exchanged a handshake,
7 correct?

8 A. Not outside, no.

9 Q. Now, on January 4th of 2014, your confidential source
10 called Gamba, right?

11 A. Correct.

12 Q. And again did not call Mr. Serrano?

13 A. Correct.

14 Q. And Gamba exited his apartment on that day as well, right?

15 A. No, sir.

16 Q. Oh, that was the time where you just trailed the
17 confidential source, correct?

18 A. Correct. Gamba. Gamba came out of the Barge Inn that day.

19 Q. The Barge Inn?

20 A. Yes.

21 Q. Do you remember what Mr. Gamba was wearing on that day?

22 A. I do not.

23 Q. Do you remember the weather that day?

24 A. I do not remember.

25 Q. And the Barge Inn is just down the block from Mr. Gamba's

E6gdser6

Kealy - cross

1 residence, right?

2 A. Yes.

3 Q. He's known to frequent that location, correct?

4 A. Yes.

5 Q. And you observed Mr. Gamba exit. Did you see if he had any
6 packages with him?

7 A. No, I did not.

8 Q. Did you see if he had -- sorry. Could you see if he had
9 any bulges in his pocket?

10 A. I'm sorry, sir. I didn't see him exit from the Barge Inn
11 that day. I was watching the informant. Another law
12 enforcement officer saw Mr. Gamba.

13 Q. OK. Now, on January 16th, that was another day where your
14 confidential source called -- or it was the confidential
15 informant that called Mr. Gamba?

16 A. It was the source who called.

17 Q. The source called Mr. Gamba.

18 And they, again, did not call Mr. Serrano, correct?

19 A. No, they did not.

20 Q. And you saw Mr. Gamba exit his apartment again at that
21 time?

22 A. Yes.

23 Q. And, again, do you have any recollection as to what he was
24 wearing?

25 A. No, I do not.

E6gdser6

Kealy - cross

1 Q. Would you have any recollection as to whether he was
2 carrying a package with him?

3 A. No, I do not.

4 Q. Any idea if he had a bag with him?

5 A. No, I do not.

6 Q. How many drug cases have you done in your career?

7 A. Cases?

8 Q. Yes.

9 A. Personally where I was the lead investigator?

10 Q. How many have you been involved in?

11 A. Involved in?

12 Q. Roughly. I won't hold you to it.

13 A. 250, somewhere around there.

14 Q. Would you say it is pretty important to observe the
15 clothing that individuals are wearing during those
16 observations, during those -- withdrawn.

17 Would you say it is important to observe the types of
18 clothing that people that you suspect are involved in narcotics
19 trafficking are wearing?

20 A. In some cases.

21 Q. Some cases because you are not sure if people are carrying
22 the drugs or secreting them in some way, right?

23 A. Correct.

24 Q. But you didn't note that on this particular occasion?

25 A. No.

E6gdser6

Kealy - cross

1 Q. Now, on February 14th there was also a purchase from
2 Mr. Gamba, isn't that right?

3 A. Yes.

4 Q. Of 2013, correct?

5 A. Yes.

6 Q. And that was where your confidential informant purchased
7 heroin from Mr. Gamba, correct?

8 A. Yes.

9 Q. That was similar to the other operations, where the
10 confidential informant called Mr. Gamba and set up a meeting,
11 right?

12 A. Correct.

13 Q. And that meeting was at the Barge Inn down the block?

14 A. Correct.

15 Q. And the confidential informant entered and purchased heroin
16 from Mr. Gamba, correct?

17 A. Correct.

18 Q. And Mr. Serrano was not there, right?

19 A. Correct.

20 Q. You didn't observe Mr. Gamba travel to Mr. Serrano's home
21 at all at that time, right?

22 A. Correct.

23 Q. Now, as part of your work on this case -- I'm sorry.

24 MR. DE CASTRO: Judge, can I have one second?

25 THE COURT: Yes.

E6gdser6

Kealy - cross

1 (Pause)

2 MR. DE CASTRO: Thank you, Judge.

3 BY MR. DE CASTRO:

4 Q. This case is somewhat personal for you, isn't it?

5 A. No, sir.

6 Q. This prosecution has no personal ties to you at all; did
7 you say that?

8 A. Say that again.

9 Q. Do you remember saying this isn't personal at all to you?

10 A. No, this is not personal.

11 Q. Do you have any connection to -- any personal connection to
12 Mr. Serrano?

13 A. Personal? No.

14 Q. Didn't you know my client before you were even involved in
15 this investigation?

16 A. Yes. We had a mutual friend.

17 Q. In fact, you knew him as Chillini, right?

18 A. Yes.

19 Q. Prior to this investigation?

20 A. Yes.

21 Q. Years before this investigation?

22 A. Yes.

23 Q. And the mutual friend you are talking about is one of the
24 Cardinellis, right?

25 A. Correct.

E6gdser6

Kealy - cross

1 Q. And there is a Big Jimmy and Little Jimmy Cardinelli,
2 right?

3 A. Correct.

4 Q. Little Jimmy is a Jersey City cop?

5 A. Yes, he is.

6 Q. And isn't Mike Gamba -- wasn't Mike Gamba friends with the
7 Cardinellis?

8 A. I don't know.

9 Q. You never saw Mike Gamba over at the Cardinellis' house?

10 A. No.

11 Q. You had been to the Cardinellis' house, right?

12 A. Yes.

13 Q. In fact, you had been to the Cardinellis' house when
14 Mrs. Serrano was there, right?

15 A. Correct.

16 Q. In fact, that is really how you first met her, right?

17 A. Correct.

18 Q. You first met her before she even knew the defendant,
19 right?

20 A. I don't know.

21 Q. She wasn't married when you met her, right?

22 A. No, she wasn't.

23 Q. She wasn't Linda Serrano at that time?

24 A. Right.

25 Q. I mean, now she is married to the defendant, right?

E6gdser6

Kealy - cross

1 A. Correct.

2 Q. And you know they have a young son named Jagger, right?

3 A. Correct.

4 Q. And would you say that you met her around 2003?

5 A. No. I'd say it's around 2006, 2007.

6 Q. OK. Seven/eight years ago?

7 A. Yes.

8 Q. Far before you started this investigation, right?

9 A. Correct.

10 Q. And was that even before you were working in the Hudson
11 County Prosecutor's Office?

12 A. No. I was working there.

13 Q. You and Mrs. Serrano used to hang out at the Cardinellis',
14 right?

15 A. Yes.

16 Q. The Cardinellis' invite a lot of people over, right?

17 A. Yes.

18 Q. They are very -- they are part of this close-knit
19 community, right?

20 A. Correct.

21 Q. There are barbecues and parties and pool parties, right?

22 A. Right.

23 Q. And I think you testified that you are very close to little
24 Jimmy, right?

25 A. Yes.

E6gdser6

Kealy - cross

1 Q. Are you also close to Big Jimmy, too?

2 A. Yes, I'm close to them.

3 Q. Now, you would see Mrs. Serrano at Cardinellis' functions,
4 right? Parties, pool parties, things like that?

5 A. There was only, I'd say, about less than ten times that
6 I've seen her there.

7 Q. So nine times? Five times? Closer to ten or closer to
8 one?

9 A. I think I'd give it a little more than a little less.

10 Q. So around five -- maybe five/six times --

11 A. Around there.

12 Q. -- you have been at a party where Linda Serrano --

13 A. Yes.

14 Q. -- was at the Cardinellis'?

15 A. Yes.

16 Q. Let me finish the question so the reporter can get both our
17 words down.

18 So there was some point that Linda Serrano started
19 dating Mr. Serrano, correct?

20 A. Yes.

21 Q. You became aware of that, right?

22 A. Yes.

23 Q. You became aware of that because, in fact, Linda Serrano
24 started bringing Mr. Serrano to the Cardinellis', right?

25 A. Correct.

E6gdser6

Kealy - cross

1 Q. And fair to say you weren't a fan of Mr. Serrano at that
2 time, were you?

3 A. I had no opinion of him.

4 Q. You didn't tell Linda anything about him?

5 A. Never.

6 Q. Never thought she was too good for him?

7 A. Never.

8 Q. Never said that to her?

9 A. Never.

10 Q. So she started bringing Mr. Serrano to the Cardinelli
11 functions at times as well, right?

12 A. I think there was only three times that I was there that
13 Mr. Serrano was there.

14 Q. And you met him and spoke to him, correct?

15 A. Yes.

16 Q. Friendly, right?

17 A. Yes.

18 Q. And there came a point in time when the Cardinellis' home
19 was burglarized, right?

20 A. Burglarized?

21 Q. In fact, there was a guy named Sammy that was robbed inside
22 that home, was there not?

23 A. Yes. Sammy was robbed.

24 Q. Sammy, whose father owns a construction company, right?

25 A. Correct.

E6gdser6

Kealy - cross

1 Q. And Sammy was at the Cardinellis' allegedly doing payroll,
2 right?

3 A. I don't know the details of it. I just -- I heard that,
4 you know, he was robbed.

5 MR. MUKHI: Judge, objection as to relevance as to
6 this.

7 THE COURT: All right. I'm assuming Mr. De Castro is
8 going to -- I will give him little more leeway.

9 Tie it in.

10 BY MR. DE CASTRO:

11 Q. Wasn't -- a few questions, it will be clear, Judge.

12 Isn't it true that Sammy was doing the cash payroll at
13 the Cardinellis' for the construction site?

14 A. I don't know that.

15 Q. That he was robbed, or claimed that he was robbed and made
16 a report to law enforcement?

17 A. I don't know that.

18 Q. Did you hear about this particular incident?

19 A. I heard that Sammy was robbed near the Cardinellis'. I
20 didn't know the details of it.

21 Q. And isn't it true that you thought at that time that
22 Mr. Serrano was responsible for that?

23 A. No, I didn't think that he was -- I didn't know what
24 Mr. Serrano was involved in. I didn't know either way.

25 Q. You knew he was involved with Linda Serrano, right?

E6gdser6

Kealy - cross

1 A. Yes, I knew he was involved with Linda Serrano.

2 Q. Who you had known and were friends with, correct?

3 A. Friends? We weren't friends. We were acquaintances. We
4 saw each other at the Cardinellis' house. But to say friends,
5 no. I never called her on the phone or things like that.

6 Q. Back in those years, 2006/2007, if you were driving by 348
7 8th Street, did you know that's where Linda Serrano lived?

8 A. No, I did not.

9 Q. You never stopped by and chat with her on the street?

10 A. No, I did not.

11 MR. DE CASTRO: Nothing further, Judge.

12 THE COURT: Thank you.

13 Mr. Mukhi, any redirect?

14 MR. MUKHI: Your Honor, just very briefly.

15 REDIRECT EXAMINATION

16 BY MR. MUKHI:

17 Q. Detective Kealy, on cross-examination Mr. De Castro asked
18 you about a sale of heroin from Michael Gamba on February 14,
19 2013. Do you recall that?

20 A. Yes, I do.

21 Q. And do you recall he asked you questions about not
22 observing Mr. Serrano during the surveillance on that day, the
23 February 14th date?

24 A. Correct.

25 Q. And do you recall whether or not heroin was successfully

E6gdser6

Kealy - redirect

1 obtained from Mr. Gamba on February 14th?

2 A. From Mr. Serrano?

3 Q. From Mr. Gamba.

4 A. Yes, it was.

5 Q. And do you recall what the stamp was on the heroin from
6 February 14, 2013?

7 A. I believe there -- you know what. May I see my report?

8 MR. MUKHI: Your Honor, may I refresh him?

9 THE COURT: Yes.

10 MR. MUKHI: 3524-A.

11 Q. And if you could review the report, put it down, and then I
12 will ask my question again.

13 (Pause)

14 A. OK.

15 Q. Having reviewed your report, do you now recall what the
16 stamp on the heroin was that was purchased from Michael Gamba
17 on February 14, 2013?

18 A. Yes. It was Street Nights.

19 Q. And is that similar to any of the stamps we saw in
20 Government Exhibits 190 through 193?

21 A. No, it was not.

22 Q. And I am going to hand you Government Exhibit 192.

23 Do you recognize that?

24 A. Yes.

25 Q. And what was the stamp -- and what is it?

E6gdser6

Kealy - redirect

1 A. Harlem -- it's -- it is the heroin purchased on January 4,
2 2013.

3 Q. And what was the -- and was that during the buy operation
4 with the targets of Gamba and Anthony Serrano --

5 A. Yes.

6 Q. -- that we talked about earlier?

7 A. Yes.

8 Q. What was the stamp from that particular day?

9 A. Harlem Nights.

10 Q. All right.

11 MR. MUKHI: One moment, your Honor.

12 THE COURT: All right.

13 (Pause)

14 MR. MUKHI: Nothing further, your Honor.

15 THE COURT: All right. Thank you.

16 Oh, wait. Mr. De Castro has got --

17 MR. DE CASTRO: A couple of questions.

18 THE COURT: This is the way it goes.

19 MR. DE CASTRO: May I borrow 192?

20 May I approach, Judge?

21 THE COURT: Yes, you may.

22 RECROSS-EXAMINATION

23 BY MR. DE CASTRO:

24 Q. Detective, you just testified about the stamp Harlem
25 Nights, right --

E6gdser6

Kealy - recross

1 A. Correct.

2 Q. -- that is contained within Government Exhibit 192, right?

3 A. Correct.

4 Q. And you said the stamp on that date on February,
5 February 14th, was not similar, right?

6 A. Correct.

7 Q. The name was different, right?

8 A. The name was different.

9 Q. What was different about the stamp?

10 A. It was a different identifier.

11 Q. Different name?

12 A. Correct.

13 Q. Was it the same type of stamp? Did it look the same?

14 A. No.

15 Q. Do you remember, what did it look like?

16 A. No, I don't.

17 MR. DE CASTRO: Nothing further.

18 THE COURT: All right. Thank you.

19 You may step down, sir.

20 (Witness excused)

21 THE COURT: All right. Would the government like to
22 call its next witness, please.

23 MR. MUKHI: Yes, your Honor.

24 The government calls Sergeant John Kolakowski.

25 THE COURT: All right. Sergeant Kolakowski, please.

E6gdser6

1 Ladies and gentlemen of the jury, while we are waiting
2 for the next witness, I just want to remind you that we will
3 end promptly at 5. So you can think about that as the
4 timeframe. We will go for about another half an hour, 32
5 minutes, something like that.

6 JOHN KOLAKOWSKI,

7 called as a witness by the government,

8 having been duly sworn, testified as follows:

9 THE CLERK: Please state your full name for the record
10 and spell your last name for the record.

11 THE WITNESS: My name is John Kolakowski, last name
12 spelled K-o-l-a-k-o-w-s-k-i.

13 THE CLERK: Thank you.

14 THE COURT: All right. Sergeant, please be seated,
15 sir. And it will be important for you to speak clearly and
16 with a strong voice into the mic. I'm sure you won't have any
17 problem with that. Then there is water there on the your left,
18 if you would like it.

19 THE WITNESS: Thank you.

20 THE COURT: Mr. Mukhi, you may proceed, sir.

21 MR. MUKHI: Thank you, your Honor.

22 DIRECT EXAMINATION

23 BY MR. MUKHI:

24 Q. Mr. Kolakowski, where do you work?

25 A. I am a detective sergeant with the Hudson County

E6gdser6

Kolakowski - direct

1 Prosecutor's Office in Hudson County, New Jersey.

2 Q. And how long have you been a detective sergeant?

3 A. I have been employed as a detective since February of 2003.

4 Q. And what did you do before then?

5 A. Before then I worked in a variety of positions over there,
6 mostly clerical type work as a dispatcher. Also as a
7 prosecutor's agent, and an intern for several months when I
8 first started there.

9 Q. OK. Have you had any other jobs in law enforcement besides
10 the one at the Hudson County Prosecutor's Office?

11 A. No. But I was assigned out to the Drug Enforcement
12 Administration, Newark, New Jersey for approximately three
13 years.

14 Q. What are your duties and responsibilities as a detective
15 sergeant at the Hudson County Prosecutor's Office?

16 A. I'm currently assigned to the Narcotics Task Force. I
17 supervise four detectives, and we investigate narcotics
18 offenses in New Jersey.

19 Q. Turning your attention to December 20, 2012. Were you
20 working that day?

21 A. Yes, I was.

22 Q. And what was your assignment?

23 A. I was going to be assisting with a narcotics investigation,
24 specifically a controlled purchase of heroin in downtown Jersey
25 City. And I was assigned as a surveillance unit for that

E6gdser6

Kolakowski - direct

1 specific occasion.

2 Q. And who is the case agent for that controlled buy
3 operation?

4 A. Detective Justin Kealy, from the Hudson County Prosecutor's
5 Office.

6 Q. And what time of day were you doing surveillance?

7 A. Mid-afternoon, probably in the range of 3 to 4 o'clock.

8 Q. And were you -- where were you doing surveillance?

9 A. On that day I was set up on 7th Street in Jersey City, near
10 the intersection of 7th and Division.

11 Q. And what were you set up to look at?

12 A. Michael Gamba's residence, which is located at I believe
13 it's 372 7th Street in Jersey City.

14 MR. MUKHI: And if we could briefly publish Government
15 Exhibit 6.

16 Q. Do you recognize this person?

17 A. Yes, I do.

18 Q. Who is it?

19 A. That is Michael Gamba.

20 Q. Now, were you on foot or in a car that day doing
21 surveillance?

22 A. Initially I was in a car, and then once I observed
23 Mr. Gamba leave his residence I jumped out on foot and followed
24 him.

25 Q. Now, you mentioned Mr. Gamba you observed leave his house.

E6gdser6

Kolakowski - direct

1 What did you see next?

2 A. He walked east to the intersection of Brunswick and turned
3 northbound, crossed over to the east side of the street
4 mid-block, and then turned the corner and walked eastbound on
5 8th Street. And then walked over to 348 8th, 8th Street in
6 Jersey City, which is approximately about two-block walk or so.

7 Q. And, by the way, were you following by foot at this point
8 or did you go back into a vehicle?

9 A. On foot.

10 Q. And where were you in relation to Mr. Gamba when Mr. Gamba
11 arrived at 348 8th Street?

12 A. I was a little bit west of him, a few houses down on the
13 south side of the street. And I saw him approach the location,
14 ring the doorbell, and then the door opened subsequently. And
15 I observed Anthony Serrano in the doorway allowing him to enter
16 into the location.

17 Q. Do you see Anthony Serrano in the courtroom today?

18 A. Yes, I do.

19 Q. And can you point to him and identify a piece of clothing
20 he's wearing?

21 A. All right. He is sitting right over there, with the orange
22 shirt with the collared shirt.

23 MR. MUKHI: Your Honor, the government asks that the
24 record reflect the witness has identified the defendant.

25 THE COURT: So reflected.

E6gdser6

Kolakowski - direct

1 BY MR. MUKHI:

2 Q. What did you see next after the defendant let in Michael
3 Gamba into 348 8th Street?

4 A. All right. The door closed and I just milled around on the
5 block for not too long, several minutes at the most. And then
6 I saw Mr. Gamba leave the residence and then walk back to his
7 residence in the same -- pretty much the same route, west, just
8 in reverse.

9 Q. And did you conduct -- continue to conduct surveillance
10 after Gamba returned to his residence?

11 A. Yes, on foot.

12 Q. OK. And what did you see next?

13 A. He then went back to his residence at 372 7th Street, and
14 he went into his residence. And at that time I broke off from
15 that area and I let another surveillance unit take over the
16 surveillance at his house.

17 MR. MUKHI: OK. Can we put up Government Exhibit 608,
18 which is already in evidence.

19 Q. And there is a -- there should be a laser pointer in front
20 of you, Detective Sergeant Kolakowski. If you could just use
21 that to point up on the projection screen what you observed
22 that day.

23 A. All right. Mr. Gamba left the house from 372 7th Street,
24 which is marked off by "A" over there. He walked eastbound on
25 7th. Then turned northbound on Brunswick, crossing about

E6gdser6

Kolakowski - direct

1 mid-block. Went up Brunswick, and then turned the corner.

2 Came up, crossed over again to the north side of the street,

3 and then approached Mr. Serrano's location, which is marked off

4 by "B," which would be 348 8th Street.

5 Q. And where were you, approximately, when you observed

6 Mr. Serrano let Mr. Gamba into the home?

7 A. In this area over here.

8 Q. You are pointing a little bit to the left?

9 A. A little bit to the west and on the south side of the

10 street.

11 And then afterward he exited from that location and
12 then returned the same basic route to his residence at 372 7th
13 Street.

14 MR. MUKHI: OK. If we could briefly publish 605A?

15 THE COURT: Sir, were you on foot?

16 THE WITNESS: Yes.

17 THE COURT: How long did it take you to get from "A"
18 to "B"?

19 THE WITNESS: A few minutes.

20 THE COURT: All right.

21 BY MR. MUKHI:

22 Q. How far apart are they, approximately?

23 A. Again, it looks -- it's about two total blocks; two,
24 two-and-a-half the most.

25 MR. MUKHI: If you could put up 605A.

E6gdser6

Kolakowski - direct

1 Q. Do you recognize what is in this photo?

2 A. Yes. That is Mr. Serrano's residence. That is 348 8th
3 Street.

4 Q. The same residence you have been describing?

5 A. Yes.

6 Q. All right. Turning your attention to January 16, 2013.

7 Were you working on that day?

8 A. Yes, I was.

9 Q. What was your assignment?

10 A. Again, I was assigned to the surveillance unit for a
11 narcotics investigation, specifically a controlled purchase of
12 heroin on that day.

13 Q. And what was your surveillance assignment that day?

14 A. I had an eyeball or a surveillance location marked on 8th
15 Street of that day.

16 Q. And what were you looking at?

17 A. Specifically, the front of Mr. Serrano's residence.

18 MR. MUKHI: If you could put up 605B?

19 Q. Do you recognize this photo?

20 A. Yes. That's the front of -- the front door of
21 Mr. Serrano's residence.

22 Q. By the way, were you using any aids to assist your
23 surveillance on that day?

24 A. On that day, yes, binoculars. I wasn't specifically set up
25 in front of the location; I was off about a half block east

E6gdser6

Kolakowski - direct

1 from the residence.

2 Q. OK. Why don't we pull up 608.

3 So if you could use a laser pointer, approximately
4 where were you set up with the binoculars?

5 A. I was parked right in that area right there, very close to
6 the southeast corner of Monmouth and 8th Street.

7 Q. So what did you see first?

8 A. I set up surveillance at that location. And at a certain
9 period in time I saw the -- a green Lexus. I don't recall what
10 model exactly the vehicle was, but it was -- I recognized it as
11 being Mr. Serrano's because it was registered to him. He
12 passed me and then parked on the north side of the street,
13 approximately this area, a little bit east of the house.

14 He then exited the vehicle and then subsequently
15 walked over to the front of the location. From what I could
16 tell, he entered the residence.

17 Q. And what did you see next?

18 A. Several minutes later I observed a vehicle, which was being
19 utilized by our confidential informant, our cooperating
20 witness, and it arrived on 8th Street, double-parked in the
21 approximate area of where 348 8th Street is. And then I
22 observed Michael Gamba get out of the vehicle, walk over to the
23 front of the location, and then enter it.

24 He was in there for maybe about a minute, at most, and
25 then he exited from there, got back into the vehicle, and the

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Kolakowski - direct

1 vehicle departed from there.

2 Q. And what happened next?

3 A. The vehicle departed from that location, and then
4 surveillance -- other surveillance units took over the
5 surveillance of that vehicle.

6 MR. MUKHI: One moment, your Honor.

7 THE COURT: All right.

8 (Pause)

9 MR. MUKHI: Nothing further.

10 THE COURT: Thank you.

11 Mr. De Castro, cross-examination.

12 Ms. Gotlib.

13 MS. GOTLIB: Thank you, your Honor.

14 One minute, your Honor.

15 THE COURT: All right.

16 (Pause)

17 MS. GOTLIB: Thank you.

18 CROSS-EXAMINATION

19 BY MS. GOTLIB:

20 Q. Good afternoon.

21 A. How are you?

22 Q. So you testified that you observed Mr. Gamba go to
23 Mr. Serrano's residence, correct, on -- sorry, December 20,
24 2012, correct?

25 A. Yes.

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Kolakowski - cross

1 Q. And you observed Mr. Serrano open the door, correct?

2 A. Yes.

3 Q. And Mr. Gamba went inside, correct?

4 A. Yes.

5 Q. And then they shut the door, correct?

6 A. Yes.

7 Q. Did you see Mr. Serrano at any point hand anything to
8 Mr. Gamba or vice versa?

9 A. No, I didn't.

10 Q. Did you see them shake hands?

11 A. No, I didn't.

12 Q. On January 16th you observed Mr. Gamba go to Mr. Serrano's
13 residence, is that correct?

14 A. Yes, it is.

15 Q. You observed Mr. Serrano open the door, correct?

16 A. No. I didn't observe him open the door. I saw Mr. Gamba
17 approach the door, and then the door opened and he went in, but
18 I couldn't see who opened the door from where I was at.

19 Q. So you don't know if Mr. Serrano opened the door or not?

20 A. I don't know.

21 MS. GOTLIB: No further questions.

22 THE COURT: All right. Thank you.

23 Mr. Mukhi, anything further?

24 MR. MUKHI: No, your Honor.

25 THE COURT: All right. Thank you. You may step down.

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Kolakowski - cross

1 THE WITNESS: Thank you.

2 (Witness excused)

3 THE COURT: Would the government like to call its next
4 witness, please?

5 MR. MUKHI: Yes, your Honor.

6 The government calls Sergeant Musante.

7 THE COURT: All right. Mr. Musante.

8 ANTHONY MUSANTE,

9 called as a witness by the government,
10 having been duly sworn, testified as follows:

11 THE CLERK: Please state your full name for the record
12 and spell your last name for the record.

13 THE WITNESS: First name is Anthony. Last name is
14 Musante, M-u-s-a-n-t-e.

15 THE CLERK: Thank you.

16 THE COURT: All right, sir. Please be seated.

17 And it will be important for you to turn the mic so
18 you could speak into it clearly and directly.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Thank you.

21 Mr. Mukhi, you may proceed, sir.

22 DIRECT EXAMINATION

23 BY MR. MUKHI:

24 Q. Mr. Musante, where do you work?

25 A. The Jersey City Police Department.

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Musante - direct

1 Q. And what is your title?

2 A. I'm a sergeant.

3 Q. And how long have you been a sergeant with the Jersey City
4 Police Department?

5 A. I have been a sergeant since 2005, and I have been a police
6 officer approximately 20 years.

7 Q. And what types of jobs have you had as a police officer?

8 A. I was a -- I became a police officer in 1995. My first
9 four years was in the Patrol Division in the West District of
10 Jersey Police Department as an officer. In 1999, I was
11 assigned to the Hudson County Prosecutor's Office Narcotics
12 Task Force as an investigator until --

13 THE COURT: I will ask you to slow down. You speak
14 almost as quickly as I do. Slow down so the court reporter can
15 get a good sound.

16 THE WITNESS: In Jersey City we speak a little quick.
17 Sorry.

18 A. In 1999 I was assigned to the Hudson County Prosecutor's
19 Office Narcotics Task Force, where I worked as an investigator
20 until 2005. I was promoted to sergeant in 2005. I spent a
21 little over a year as an Internal Affairs sergeant for the
22 Jersey City Police Department. From 2006 until 2013, I was a
23 sergeant in the Special Investigations Unit of the Jersey City
24 Police Department, and for the past year I went back into the
25 Patrol Division as a supervisor on -- in uniform.

E6gdser6

Musante - direct

1 BY MR. MUKHI:

2 Q. Now, what are your current duties and responsibilities as a
3 sergeant at the Jersey City Police Department?

4 A. Currently I'm in the Patrol Division. So I supervise
5 uniformed officers in regular patrol, uniformed patrol
6 functions.

7 Q. What were you doing prior to that?

8 A. Prior to that I was in the Special Investigations Unit,
9 supervising a squad of investigators, conducting operations in
10 the Special Investigations Unit.

11 Q. What is the Special Investigations Unit?

12 A. We investigate longterm operations. We conduct longterm
13 operations involving counterterrorism, organized crime, and
14 corruption activities.

15 Q. Turning your attention to January 4, 2013.

16 Were you working that day?

17 A. Yes, sir.

18 Q. And what was your assignment?

19 A. That day we were working with the Hudson County
20 Prosecutor's Office, assisting them with a controlled buy
21 operation of narcotics.

22 Q. What sort of assistance were you providing to the Hudson
23 County Prosecutor's Office?

24 A. Surveillance.

25 Q. And were you personally conducting surveillance that day?

E6gdser6

Musante - direct

1 A. Yes, sir.

2 Q. And where did you start out conducting surveillance that
3 day?

4 A. On the fourth -- I started out actually at the Barge Inn,
5 which is at 2nd and Monmouth in downtown Jersey City. I set up
6 my initial surveillance there.

7 Q. OK. What did you see first?

8 A. We initially observed a male by the name of Michael Gamba.
9 We had established surveillance on him at the bar.

10 MR. MUKHI: Can we put up Government Exhibit 6,
11 briefly.

12 Q. Do you recognize this person?

13 A. Yes. That's Mr. Gamba.

14 Q. So what happened next after you saw Mr. Gamba that day at
15 the Barge Inn?

16 A. He exited the bar. We followed him down Monmouth Street,
17 which would be northbound. He made a left onto 8th Street.
18 And we reestablished surveillance on him in front of Anthony
19 Serrano's residence on 8th Street.

20 MR. MUKHI: And if we could put up Government Exhibit
21 605A.

22 Q. Do you recognize what's in this photograph?

23 A. Yes.

24 Q. What is it?

25 A. That is the building where Anthony Serrano resides, at I

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Musante - direct

1 believe 348 8th Street.

2 Q. OK. And what did you see once Mr. Gamba arrived at Anthony
3 Serrano's residence on January 4, 2013?

4 A. Once he arrived he stood by outside by the curb area.

5 Anthony Serrano's green Lexus passed us from our
6 surveillance location on 8th Street and double-parked
7 immediately in front of the location. A female and two
8 children exited the vehicle and entered the residence. And
9 Mr. Gamba entered the passenger side of the vehicle, which was
10 being driven by Mr. Serrano.

11 After about a minute or two, Mr. Gamba exited the
12 green Lexus, and then the green Lexus left the area and
13 Mr. Gamba walked back to his residence, which was around the
14 block or around the corner on 7th Street.

15 MR. MUKHI: And if we could put up 608.

16 Q. Now, if you could just -- there should be a laser pointer
17 in front of you. If you could use the laser pointer just to
18 tell the jury what you saw once Mr. Gamba was in this vicinity.

19 A. Where the letter "B" is would be the residence of
20 Mr. Serrano. Once Mr. Gamba and Mr. Serrano interacted with
21 each other, Mr. Gamba walked to Brunswick Street. He made a
22 left, and then made a right onto 7th Street to his residence,
23 located where the letter "A" is.

24 Q. And you mentioned that Mr. Gamba and Mr. Serrano had an
25 interaction in the green Lexus. How long did that interaction

E6gdser6

Musante - direct

1 last, approximately?

2 A. One to two minutes.

3 Q. All right. Now, do you see Mr. Serrano in the courtroom
4 today?

5 A. Yes, sir.

6 Q. OK. Can you point to him and describe a piece of clothing
7 he is wearing?

8 A. Mr. Serrano is sitting third in from the left, wearing like
9 an open-collared, orangy kind of shirt.

10 MR. MUKHI: Your Honor, may the record reflect that
11 the witness has identified the defendant?

12 THE COURT: So reflected.

13 BY MR. MUKHI:

14 Q. Now, by the way, were you following Mr. Gamba on foot or
15 were you in a vehicle?

16 A. I was in a vehicle.

17 Q. And when you saw Mr. Gamba get into the green Lexus with
18 Mr. Serrano, where, approximately, were you in the vehicle? If
19 you could indicate on the map?

20 A. Where is my vehicle?

21 Q. Yes. Where was your vehicle?

22 A. My vehicle would be off the map slightly. My vehicle would
23 have been on 8th Street, halfway between Monmouth and Coal
24 Street. Right around over here.

25 Q. Were you using any visual aids that day in particular?

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Musante - direct

1 A. I was using binoculars on and off as needed.

2 Q. And were you using binoculars at the time that you saw
3 Mr. Gamba enter the car with Mr. Serrano?

4 A. Yes, sir.

5 Q. Now, turning your attention to January 16, 2013.

6 Were you working that day?

7 A. Yes, sir.

8 Q. And what was your assignment?

9 A. I was again working with the Hudson County Prosecutor's
10 Office. We were again conducting a controlled buy operation of
11 narcotics, and we were assisting them with surveillance.

12 Q. Were you personally conducting surveillance?

13 A. I was.

14 Q. And initially where were you set up to do surveillance?

15 A. Initially we set up -- my vehicle set up on the Barge Inn
16 Bar, which is on 2nd and Monmouth Street, again.

17 Q. And what did you see first?

18 A. Well, we had a -- two of our cooperators, driving one of
19 the cooperator's vehicles, arrived at the bar with Mr. Gamba.
20 Once they entered the bar on foot -- they parked and entered
21 the bar on foot, another unit containing Detective Kealy, they
22 established the primary surveillance on the bar and we
23 relinquished that to them. We established our surveillance on
24 8th Street where Detective -- then Detective Kolakowski was,
25 had already initiated surveillance on Anthony Serrano's

E6gdser6

Musante - direct

1 residence.

2 Q. Then where did you go?

3 A. I was actually back about a block behind this intersection
4 on 8th Street. It would have been here, which would be one
5 block behind -- one block east of Monmouth Street, and
6 Detective Kolakowski would have been a block ahead of me.

7 Q. And were you using binoculars that day, if you recall?

8 A. Yes.

9 Q. And so what did you see that day when you were backing up
10 Kolakowski?

11 A. We -- at that point we were stationary for a period of
12 time. The vehicle containing the two cooperators and Mr. Gamba
13 turned the corner on Monmouth Street, doubled-parked directly
14 in front of Anthony Serrano's residence. Mr. Gamba exited the
15 rear of the vehicle and approached the residence.

16 After a few minutes he returned and the vehicle exited
17 the area. We followed the vehicle out of the area, and
18 Detective Kealy reestablished surveillance once they were out
19 of the area.

20 Q. OK. Do you recall whether or not you saw the defendant's
21 car that day?

22 A. Actually, on that date the defendant's car did pass us. We
23 were parked further back. The defendant's car passed us on 8th
24 Street. When it passed us, it then parked on 8th on the
25 right-hand side right a little past the residence.

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Musante - direct

1 Q. Was that before or after, if you recall, Mr. Gamba arrived
2 with the cooperating witness?

3 A. It actually was before. We had been established on the
4 residence for between a half hour and an hour before
5 Mr. Serrano arrived. Once he entered the location, shortly
6 thereafter the cooperator's vehicle with Mr. Gamba arrived, and
7 Mr. Gamba exited the cooperator's vehicle and the cooperators
8 remained inside the vehicle.

9 Q. And when you observed the defendant's vehicle that day, did
10 you observe him in it?

11 A. Yes. He was operating the vehicle. He drove right past us
12 on 8th Street.

13 MR. MUKHI: One moment, your Honor.

14 THE COURT: All right.

15 (Pause)

16 MR. MUKHI: No further questions.

17 THE COURT: All right. Thank you.

18 Ms. Gotlib.

19 MS. GOTLIB: Yes. Thank you.

20 CROSS-EXAMINATION

21 BY MS. GOTLIB:

22 Q. Good afternoon, Sergeant.

23 A. Good afternoon.

24 Q. You observed the defendant in a vehicle, correct?

25 A. Yes.

E6gdser6

Musante - cross

1 Q. A green Lexus, correct?

2 A. Correct.

3 Q. And you saw the vehicle on at least two occasions, correct?

4 A. Correct.

5 Q. And this was an older model, correct?

6 A. Yes, it was.

7 Q. At any point did you see Mr. Gamba and Mr. Serrano exchange
8 anything between each other?

9 A. No.

10 Q. And you never saw a handshake or anything like that, is
11 that correct?

12 A. Correct.

13 MS. GOTLIB: No further questions. Thank you.

14 THE COURT: All right. Thank you.

15 Sir, you may step down.

16 THE WITNESS: Thank you, ma'am.

17 THE COURT: Did you have anything else, Mr. Mukhi?

18 MR. MUKHI: No, your Honor.

19 THE COURT: All right. Thank you.

20 (Witness excused)

21 THE COURT: All right. It being seven minutes to 5, I
22 think we will stop there for the day. It will take a few
23 minutes to get our next witness in the courtroom. So what
24 we'll do is we'll pick up tomorrow morning.

25 I think Joe has arranged to have some breakfast

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1 brought in for you folks. He'll tell you what it is. It is
2 not -- I wouldn't call it elaborate, but it is sort of
3 doughnuts and pastries and coffee. And he can maybe even get
4 fruit if you are looking for something other than doughnuts.
5 That is to motivate you to try to think ahead about your
6 commute, and I appreciate your doing that. Because we can't
7 start until you are all here -- every single one of you. And
8 so we'll wait until you are all here.

9 Hopefully, you will all be here and be ready to walk
10 in at 9:30. So if you can be in place by about 9:20/9:25, that
11 would be terrific so that we can get organized.

12 All right. I want to remind you not to talk to
13 anybody about this case, including each other. Not to do any
14 independent research on any people, places or things that you
15 have heard about. Keep an open mind. Remember that evidence,
16 as we said, comes in in pieces.

17 And I think that's it for moment.

18 I'll see you tomorrow morning. Thank you.

19 THE CLERK: All rise until the jury leaves.

20 (Continued on next page)

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(Jury not present)

THE COURT: All right. Ladies and gentlemen, let's all be seated just for a moment.

As I said, I am likely to get you a set of the jury instructions and so you will have those in the morning.

Based upon the pace that we are going, I don't know how long Mr. Moral will take, and I think that he is the longest one in terms of the government's case to come. So that could be whatever time it takes. But it may be that we'll judge tomorrow whether or not you will need to give me some comments in track changes, or whether or not we will have time to go through them all in terms of the jury instructions. But if we finish the testimony on Wednesday, we'll see where we are. It depends on Mr. Moral. I see that there is two-and-a-half hours down for him. He may take substantially longer or he may run at about that time, but the other folks have been moving fairly quickly.

Is there anything else that you folks would like to raise with me this afternoon before we break?

MS. MAIMIN: No, your Honor.

MR. DE CASTRO: No, your Honor.

(Continued on next page)

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1 THE COURT: All right. Then I will see you folks
2 tomorrow morning. We will start with each other at 9, just to
3 see if there is anything that we should go over. Then we will
4 start with testimony at 9:30. Thank you.

5 THE CLERK: All rise.

6 (Trial adjourned to 9 a.m., Tuesday, June 17, 2014)
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